

FEB 14 1995



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Doreen E. Duff 8-8
EXECUTIVE SECRETARY

January 25, 1995

To: Board of Directors (Land Committee--Action)
(Legal and Claims Committee--Action)
From: General Manager
Subject: Resolution of Necessity Directing the General Counsel to
Condemn Property Required for the Eastside Pipeline in
Riverside County, California, identified by Riverside County
Assessor's Parcel Numbers, MWD Right-of-Way Parcel Numbers and
Owners' Names, on the Attachment hereto.

Report

The Metropolitan Water District will require the interests in real property described in Exhibits A and B, attached hereto, located in Riverside County, California, for portions of the Eastside Pipeline Project. A list of Assessor's Parcel Numbers, MWD Right-of-Way Numbers, and Owners' Names is set forth in the Parcel List attached hereto. The location of each property is shown on the attached drawings designated as Exhibit B. Offers to purchase the property as required by California Government Code section 7262.2 were made.

On December 19, 1994, notices of intention to adopt a resolution of necessity and of an opportunity to appear and be heard before the Land Committee on January 9, 1995, as to the necessity for the Project and the taking of the property were served on the owners of the properties identified in Exhibits A and B. 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 to appear was received from Ms. Nancy J. Glover on behalf of Jack and Gladys Ripley. Requests were also received from Mr. Robert MacLeish and Mr. Glen Richey. A quorum of the Committee was present and a hearing was held. A written summary of the hearing is attached hereto. The Land Committee requested that staff review options to acquiring the easements and to consider acquiring the properties in full.

The Supplemental Environmental Impact Report (SEIR) places the applicable section of the pipeline in the existing public right-of-way of Darlene Lane. This alignment saves \$2.8 million in construction costs over the original alignment adjacent to the San Diego Canal due to savings in pipeline length and land acquisition costs. Current construction plans

use open-cut construction that requires acquisition of easements on the subject properties to allow the owners access during construction.

The SEIR notes that construction impacts associated with a pipeline alignment in Darlene Lane would not be substantially different from the impacts of the original alignment adjacent to the San Diego Canal. Construction will disturb the area for no more than six months. The SEIR reiterates the mitigation measures presented in the Final Environmental Impact Report (FEIR) to reduce construction impacts on residential properties to a level of insignificance and states that no adverse long-term impacts on current or future land uses are expected. Therefore, the SEIR contains no additional mitigation measures associated with the referenced properties.

The purchase of the subject properties in full could potentially provide Metropolitan additional land to support reservoir maintenance operations. However, the cost of purchasing the four properties is estimated to be between \$2 million and \$3 million. The decision to purchase the subject properties is considered a separate issue from the current owner access issue during construction.

Staff has reviewed the pipeline alignment and construction and determined that there are five options available to address the needs of Metropolitan and the property owners. All are consistent with the FEIR and SEIR.

1. Purchase the construction easements, allowing construction to proceed as designed. This is the least-cost option, but requires a construction easement for owner access along the front of the properties adjacent to Darlene Lane. Property owners have expressed that they do not want a construction easement for access, but would rather be acquired in full. Condemnation proceedings for the easements would be required. Owners object to this method because of construction impacts and perceived long-term impacts. The estimated cost of the easement is \$14,300, although this cost would be higher if temporary relocation of residents and businesses is provided. As noted above, construction in this area would require no more than six months. In addition, we would work with the contractor to minimize the impacts on adjacent property owners.

2. Acquire a construction easement on the northernmost property only. This option is possible if an optional "tight sheeting" construction method were to be used along the front of subject properties, rather than open cut. A construction easement would still be required on the northernmost portion of Parcel 144-1-321, but all other construction would be on Metropolitan land or within existing public right-of-way. This construction method would increase construction costs by \$400,000 over Option 1 depending on subsurface conditions. The cost of an easement on the northernmost property for construction access would be minimal.

3. Revert to pipeline construction along the San Diego Canal. This was the original FEIR alignment and would cost \$2.8 million more than Option 1 for construction costs alone. Land acquisition costs could also be higher because there would be a permanent take of some of the property.

4. Change the pipeline alignment to the east of the subject properties. This would eliminate the easement for public access by relocating the pipeline to the east. The construction access easement of the northernmost portion of Parcel 144-1-321 would still be required. Due to geological considerations, the construction cost would be \$1.3 million more than Option 1.

5. Installing the pipeline directly through the subject properties. This would result in approximately \$200,000 in increased construction cost due to additional pipeline length plus require the purchase of additional permanent right-of-way at a cost of between \$1 million and \$3 million.

After considering the options, staff recommends Option 1. This option serves the greatest public good with the least private injury, and is consistent with our past use of public rights-of-way to align our pipelines and reduce property takes. The easements acquired are temporary and will not permanently affect the properties. The roadway will be restored to its prior condition upon completion of the construction, which will take no more than six months. Drainage facilities will also be constructed along the Darlene Lane replacement which will substantially reduce local flooding on these properties. Acquisition of the access easements for the property owners will allow the pipeline to be constructed in the most efficient and cost-effective manner.

The resolution of necessity attached hereto is based on the adoption of Option 1, and provides for acquisition of the property interests described in Exhibits A and B, attached hereto, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the properties.

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. On February 8, 1994, your Board adopted a final Supplemental Environmental Impact Report and determined that the alignment of the Eastside Pipeline will not have a significant impact on the environment. 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.

Recommendation

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

John R. Wodraska
General Manager

Submitted By:



Gary M. Snyder
Chief Engineer

Concur:



John R. Wodraska
General Manager

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 in Domenigoni Valley, Riverside County, California. Construction of the reservoir requires construction of the Eastside Pipeline which will transport water to the reservoir.
3. The acquisition of the interests in the properties described in the proposed resolution of necessity is necessary for the construction of the Eastside Pipeline. The properties are located within Metropolitan's boundaries.
4. Metropolitan will require entry upon the properties in order to be able to commence construction of the project.
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 properties described in the proposed resolution of necessity, and a court order or orders obtained authorizing Metropolitan to take possession of the properties.

Executed in Los Angeles, on February 3, 1995.


Gary M. Snyder

A T T A C H M E N T

<u>ASSESSOR'S PARCEL NO.</u>	<u>MWD PARCEL NO.</u>	<u>OWNER'S NAMES</u>
APN 465-190-049	144-1-319TEA1	Suzanne M. Bence
APN 465-190-075	144-1-317TEA1	Robert and Dorothy MacLeish
APN 465-190-048	144-1-321TEA1	Glen and Marianne Richey
APN 465-190-074	144-1-311TEA1	Jack W. and Gladys E. Ripley

karsch\jvboard\resnl t.26

**SUMMARY OF JANUARY 9, 1995 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 EASTSIDE PIPELINE PROJECT**

On January 9, 1995, 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 Doude Wysbeek presided. A quorum of the Committee was present.

Chairman Wysbeek requested that Deputy General Counsel Joseph Vanderhorst present the matter to the Committee. Mr. Vanderhorst advised the Committee that the Item 7b involved the hearing required by the eminent domain law prior to the commencement of a condemnation action. The hearing is to determine whether the project is necessary for the public good, whether the project is planned and located in the manner most compatible with the greatest public good and least private injury, and whether the property to be acquired is necessary for the project. The property owners were given notice of the hearing and submitted requests to appear and be heard.

Engineering Project Manager Dennis Majors made a presentation regarding the Eastside Pipeline and the construction work which will involve placing the pipeline in Darlene Lane. The Domenigoni Valley Reservoir Project is critical to the overall reliability of Metropolitan's system. The Eastside Pipeline will feed water by gravity flow into the reservoir. With the use of graphics, Mr. Majors showed the Darlene Lane area, and the adjacent properties which were not acquired for the reservoir project. The pipeline construction will use the roadway area, and requires acquisition of an access easement to allow the property owners access to their properties during the construction period.

Director Wright inquired if the property would revert back to the property owners and how long the easement would be in place. Mr. Majors responded that the easement was temporary and would revert to the owners. The easement is described as being for five years, but will be returned upon completion of the construction. Director Little inquired if the pipeline could be moved onto Metropolitan property to allow the roadway to remain open for the property owners. Mr. Majors answered that there are significant problems with bedrock which make it too costly to move the pipeline to the east.

Director Watton asked if the construction contractor could not be required to provide access to the property owners through the construction zone. Mr. Majors stated that it would be necessary to bridge the trench to allow access during

construction and that it would not be safe to allow members of the public into the construction zone.

Director Peterson inquired if there are any structures within the easement area. Mr. Majors answered that there would be some stables or corrals that would require relocation during the construction period.

Chairman Wysbeek then requested the property owners proceed with their presentation. Mr. Glen Richey stated that he owns two of the affected properties, which are Metropolitan's parcel nos. 319 and 321. He objected that the easement expands from 30 feet to 74 feet on his northerly property. He contended that Darlene Lane is not a public road, but a private road that belongs to the property owners. The corrals on the northernmost property are for his Texas Longhorns, which will have to be moved. Mr. Richey also stated that he has \$800,000 worth of horses in training on the property and is expecting 25 mares to arrive for breeding in the next two months. The construction noise will affect the horses. With the use of photographs, Mr. Richey indicated that there are 75 trees within the easement area that will be removed and a well that supplies the south side of his property. He further stated that he is impacted by the acquisition of neighboring properties by Metropolitan because this has limited the riding trails which he used to use on those properties. As a result, he requested a full take of his property, and the Bence property which he is acquiring through a bankruptcy action.

There was a discussion between the Committee and staff regarding whether Darlene Lane was dedicated and whether there were other existing utility lines in the roadway. Mr. Vanderhorst indicated that dedication of the roadway has been accepted for utility purposes.

Director Peterson asked if there has been any analysis of whether the acquisition of all the properties between the San Diego Canal and Darlene Lane would be justified. Mr. Majors answered that the Environmental Impact Report considered impacts on these properties and concluded that it was not necessary to acquire them, but that he was willing to look at this issue again in light of the pipeline construction.

Mr. Robert MacLeish addressed the Committee and stated that he has had his property for sale for three years. He had requested and received a letter from Metropolitan stating that his property would not be acquired for the reservoir. However, things have changed now that Metropolitan is seeking to acquire an easement over the property. He has had to move his wife from the property due to illness, and

needs to sell the property so that he is no longer separated from her. He requested that Metropolitan purchase the entire property rather than just the easement.

Attorney Nancy J. Glover, representing the Ripleys, stated that construction has already occurred which involved grading and erecting an industrial building. The grading has affected the drainage and the ongoing construction will have a substantial impact on all the owners. The rural character of the area is changed due to construction of Metropolitan's industrial facilities. Each owner has a business or tenant that will be interrupted or lost because of the easement, which will run very close to buildings on some of the properties. The owners are all using well water on the properties and are concerned about the effect on water quality of the addition of septic tanks in the Metropolitan facilities which are being built. The pipeline itself, which is very large, could affect the source of their well water. The five year length of the easement will adversely affect the value of the properties. The owners request that Metropolitan look again at acquiring the properties in their entirety which will consolidate Metropolitan's ownership to the San Diego Canal.

Chairman Wysbeek asked if the 30 foot access could not be placed east of the pipeline construction, and the trenching performed in a way that would allow access across to the property owners. Mr. Majors answered that it might be possible to provide access at some points during the project by this means but that eventually the access would be required on the west side of the construction work.

Chairman Wysbeek inquired into the cost of relocating the property owners' facilities within the easement area. Mr. Mark Mendoza answered that a trailer would have to be moved, but that the trees and any water well would be protected in place.

Mr. MacLeish stated that when he put a pool on his property, it required blasting. He believed that Metropolitan would have to blast to install its pipeline, which would make life difficult for the property owners. Mr. Case and Mr. Majors responded that construction work would be done during daylight hours, and that any damage which occurs will be repaired by Metropolitan.

Director Peterson stated that he would like to have staff look into full acquisition of the properties if it could be done without a new EIR. Director Wright asked for a comparison of the cost of taking the easement as opposed to a full take of the properties. Director Troxel commented that he would like staff to take a proactive approach to resolve some of the potential problems identified by the owners before they

actually arose during construction. Director Mylne stated that he did not believe there was justification for a full take of the properties based on a temporary road closure. Director Peterson responded that his request to consider a full take was based on the whole project rather than just the pipeline construction.

Director Little asked if the Supplemental EIR considered the Darlene Lane alignment and whether blasting would be required. Mr. Majors answered that the Darlene Lane alignment was covered by the Supplemental EIR, and that it presently appears that blasting will be required about one-half mile away from the subject properties. In response to a further inquiry from Director Little, Mr. Majors stated that there would not be other construction activity on Darlene Lane after the pipeline is constructed. The pipeline construction should take about four months in this area. Director Parker asked if the construction equipment for the Saddle Dam would use Darlene Lane. Mr. Majors responded that the access to the Saddle Dam would be from within the valley, and not over Darlene Lane.

Director Stamper suggested that staff be directed to look at the consequences of a full take of the properties. Director Wright moved that staff report back the following month on the relative costs of acquiring the properties in full as opposed to the easement, whether the pipeline may be moved to allow access within Darlene Lane, whether any construction techniques would allow access during construction without the easement, and whether the time of the easement can be shortened. The motion was approved with Director Mylne voting "no."

Copies of the documents submitted by Mr. Richey and Ms. Glover are attached.

The Richey ranch hosts a large variety of animals. It is mainly a Peruvian Paso farm, but there are other breeding animals as well. Glen has Texas Longhorn cattle, Barbados sheep and many exotic birds.

There are 10 National Champion Peruvian Paso horses, 6 of which are highly selected stallions. These horses are actively shown and bred. The Peruvian breed is a high-spirited, hot-blooded animal which requires patience and care in every facet of their growth. The training is lengthy and difficult. The ranch hosts the most successful trainer of the breed in the U.S.A..

The activity around the ranch by MWD in the near future and long term, will cause injury and damage to the horses, personnel and clients.

MWD has TAKEN away the rural residential character of the neighborhood. It changed the land use across the street to industrial for MWD operations and construction yard. This alters the rural and residential potential of the Richey property, thus reducing the value.

The ranch is completely surrounded by MWD improvements which will prevent this property from realizing its highest and best use. It also greatly impacts the current use and enjoyment.

SURROUNDING IMPROVEMENTS

1. San Diego Canal
2. San Diego Pipeline (underground)
3. Eastside pipeline
4. MWD operation yard and industrial buildings
5. MWD Domenigoni West Dam and Reservoir
6. MWD Multi-Species Preserve

MWD BUFFER

MWD has stated in their literature and at numerous meetings that they normally purchase all land within $\frac{1}{2}$ to 1 mile of the reservoir in order to preserve, manage and maintain their property.

These properties fall well within an $\frac{1}{8}$ to $\frac{1}{4}$ of a mile from the project, and furthermore, have surrounded my improvements.

As an owner, it is Glen Richey's preference for MWD to buy his entire property so that he may relocate his business to a quieter, more suitable location for his horses and livestock. This was the type of environment he enjoyed before MWD's reservoir project.

Purchase of these properties will consolidate MWD boundaries while ensuring improvement security.

MWD IMPACTS AND DAMAGE

BUSINESS

- Damage or loss of business or goodwill
- Damages arising from temporary relocation of animals
- Damages to business from increased operating costs at two locations instead of one
- TAKING of riding trails presently used for training and

riding in the horse business. This is a full TAKING damage.

41263

DECREASED PROPERTY VALUE

- Temporarily, there will be no marketability during the construction.
- Long term impacts of MWD project will decrease the property value.

IMPACTS OF MWD IMPROVEMENTS

- San Diego Canal and setbacks
- Eastside pipeline and setbacks
- MWD construction site impacts
- Multi-species habitat restrictions
- San Diego underground pipeline and setbacks

WHEN A PROJECT IMPACTS THE SURROUNDING PROPERTIES, THEY ARE SUPPOSED TO CONSIDER ALTERNATIVES

- The costs to MWD to temporarily relocate the property owner and compensate for damages is as great as the purchase price of the property. Tearing down and reconstructing all improvements and two full moves - trees, landscaping, lawns, pastures, fencing, irrigation system, moving of livestock, veterinary costs, moving households, Trainers' quarters, equipment, etc. Plus loss of feed and pasture.
- Damage to the delicate temper of the horses.
- Damage to the health of the animals from stress, colic conditions caused by move or project construction.
- Additional disturbance in the form of MWD personnel and security constantly agitating the horses.
- Potential for injury and damage to clients, personnel, trainers, and property from spooked horses caused by loud machinery and warning bells.
- Riding and exercise trails have been eliminated, MWD has given access to one dirt road which is the main construction access. These trails are temporary and will be TAKEN away.
- Potential damage to wells from the blasting for the pipeline.
- Potential damage to septic systems and plumbing lines from blasting.
- Glen Richey has several ponds on his property where he raises exotic birds, fish and turtles. These include several valuable varieties of ducks, swans, and peacocks. These birds will be lost during the construction process, mostly dying from fright complications or flying away.
- The MWD project has already increased the number of coyotes and predators killing his birds. This will only increase as the wildlife is pushed out of the dam site.
- Diminished quality of life. Increased noise and dust from the project construction over the next 10 years will affect the humans and livestock.

FLOOD AND DRAINAGE

- MWD has stripped the hills and vacant property across the street which will create more flood potential.

B C D E F G STET

Richey #1
McLish
Richey

PROPOSED EASTSIDE PIPELINE

PROPOSED NEWPORT ROAD RELOCATION

PROPOSED TRANSMISSION LINE

HEMET CHANNEL

A.T. & S.F.R.R.

ROAD

FUTURE ROAD

WARREN

POPLAR

SALT CREEK

HEMET CHANNEL

SIMPSON ROAD

SIMPSON ROAD

PROPOSED SALT CREEK CHANNEL

SADDLE DAM

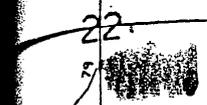
DAM

Newport

Road

5 S

6 S



ESTER

651

643

721

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

651

643

721

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

639

643

639

639

639

639

639

639

639

639

639

639

639

639

639

639

639

639

639

637

637

637

637

637

637

637

637

637

637

637

637

637

637

637

637

637

637

637

635

635

635

635

635

635

635

635

635

635

635

635

635

635

635

635

635

635

635

633

633

633

633

633

633

633

633

633

633

633

633

633

633

633

633

633

633

633

631

631

631

631

631

631

631

631

631

631

631

631

631

631

631

631

631

631

631

629

629

629

629

629

629

629

629

629

629

629

629

629

629

629

629

629

629

629

627

627

627

627

627

627

627

627

627

627

627

627

627

627

627

627

627

627

627

626

626

626

626

626

626

626

626

626

626

626

626

626

626

626

626

626

626

626

625

625

625

625

625

625

625

625

625

625

625

625

625

625

625

625

625

625

625

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

623

PATTERSON AVE.

721 AVE.

328 TEAL DIEGO

319 LN.

311

313

651

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

643

Richey 41263
#2
319

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

<p>1</p> <p>2</p> <p>3 In re</p> <p>4 SUZANNE MARIE BENCE, aka SUZANNE</p> <p>5 MARIE BENCE-TERRY, dba RANCHO</p> <p>6 LIBERTAD,</p> <p>Debtor.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. SB 92-27404-DN</p> <p>NOTICE OF MOTION TO APPROVE</p> <p>COMPROMISE OF CONTROVERSY</p> <p>Date: January 17, 1995</p> <p>Time: 10:30 a.m.</p> <p>Place: 699 N. Arrowhead Ave.,</p> <p>San Bernardino, CA</p> <p>Ctrlm: "1"</p>
---	--	---

TO THE HONORABLE DAVID N. NAUGLE, UNITED STATES BANKRUPTCY JUDGE, CREDITORS, THEIR ATTORNEYS, AND OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE that on January 17, 1995, Karl T. Anderson, Chapter 7 Trustee of the above-entitled estate will move the court for an order authorizing him to enter into a compromise of controversy with the Debtor in this case and with creditor Glenn Richey. The compromise stems from a dispute over ownership of real and personal property located at 33580 Patton Road, Winchester, California. Creditor Glenn Richey filed a lawsuit in state court before the petition was filed in this case alleging equitable ownership of the property and filed a Notice of Pendency of Action in the County Recorder's Office of Riverside, California asserting a claim to the real property. Mr. Richey has maintained that the Trustee has no more than legal title to the property and has no beneficial interest in the property. The Settlement Agreement provides for conveyance of the estate's interest in the real property and certain personal property to Richey in exchange for \$30,000.00 cash. \$15,000.00 of the \$30,000.00 settlement amount will be set aside exclusively for payment to the Debtor in satisfaction of her homestead claim against the property. The Debtor also will retain certain personal property under the proposed Agreement. The estate will retain \$15,000.00.

PLEASE TAKE FURTHER NOTICE that the Trustee, during the pendency of the case and negotiations over the litigation concerning the property has collected rent from a tenant on the real property in the amount of \$1,400.00 per month. Under the proposed Settlement Agreement, the estate will retain four months' worth of rent or \$5,600.00 and the remainder of rent collected by the Trustee will be released to Glenn Richey. The Trustee believes that the compromise is in the best interest of the creditors of the estate because the interest of the estate in the property is unclear and would require extensive litigation to obtain marketable title to the property. However, under the Settlement Agreement, the estate will receive an immediate cash benefit without the expense of litigation.

PLEASE TAKE FURTHER NOTICE that any party wishing to oppose the motion under Local Rule 111 must file opposition to the motion in duplicate with the clerk of the court no later than 11 days before the hearing. Any opposition must also be served upon counsel for the Trustee and the Trustee; counsel for Glenn Richey - F.C. Adams, Esq., 370 West Sixth Street, Suite 110, San Bernardino, California 92401; and counsel for the Debtor - Winfield S. Payne III, Esq., 23318 Olivewood Plaza Drive, #F, Moreno Valley, California 92553. A complete copy of the motion, along with supporting documents, is on file with the Clerk of the Bankruptcy Court and may be reviewed there during normal business hours. In addition, a complete copy of the motion with supporting documents can be obtained by telephone call to the undersigned.

Dated: Dec. 27, 1994

BEST, BEST & KRIEGER
800 N. Haven Avenue, Suite 120
Ontario, CA 91764
(909) 989-6584

By: *[Signature]*
Meredith A. Jury, Bar #071394
Richard T. Egger, Bar #162581
Attorneys for Karl T. Anderson, Chapter 7 Trustee

Best, Best & Krieger
800 N. Haven Avenue, Suite 120
Post Office Box 4360
Ontario, California 91764

NG

NANCY J. GLOVER
Attorney At Law

24445 N. Palm Ave
Hemet, CA 92543
(909) 658-7578

HEARING BEFORE THE LAND COMMITTEE
OF THE METROPOLITAN WATER DISTRICT

RE: Hearing on Resolution of Necessity.
Date: January 9, 1995, 7:30 A.M.
Easement from Jack & Gladys Ripley.
Property location: 33720 Newport Rd,
Winchester, CA

I am legal counsel for Jack and Gladys Ripley. The Resolution of Necessity which you are considering today includes the acquisition of a 5-year easement along the entire east boundary of property on the corner of Newport Road and Darlene Lane belonging to my clients.

We want to go on record opposing the easement. This opposition is based on the significant impacts which the property owners will suffer from the entire project. Instead of granting MWD the easement, the property owners are requesting that MWD consider the alternative approach and declare a necessity for a full taking of not only Mr. and Mrs. Ripley's property but all properties within the Newport Road and Darlene Lane triangle. This is an opinion shared by all property owners.

In order for you to fully evaluate the consequences of the Domenigoni Reservoir Project and the full impact on the property owners in the Newport Road/ Darlene Lane triangle, please consider the following factors:

1. CONSOLIDATION OF BOUNDARIES:

MWD's full taking of the properties in the Newport Road/Darlene Lane area will consolidate MWD boundaries by taking all remaining property between the San Diego canal and the current project boundary along Darlene Lane.

2. SURROUNDING IMPROVEMENTS:

a. MWD's construction of the new industrial and/or administrative buildings east of the subject properties will continue to cause additional water runoff and flooding of the lower properties, subjecting MWD to future damage claims.

b. MWD's installation of additional buildings, septic tanks, leach lines and the installation of the 14 foot pipeline down Darlene Lane could seriously impact the water wells on the lower properties.

3. ZONING INCONSISTENCIES:

Mr. and Mrs. Ripley's property at the corner of Newport Road

and Darlene Lane is zoned Rural Residential (RR). MWD has constructed industrial buildings on property immediately east of Darlene Lane and more large administrative buildings are planned. These improvements alone will impact the neighboring properties as follows:

- a. MWD has taken away the rural character of the neighborhood by changing the land use.
- b. The subject properties are completely surrounded by MWD projects, such as the San Diego Canal, San Diego Pipeline (underground), MWD operation yard and industrial buildings, MWD Domenigoni West Dam and Reservoirs.

4. MWD BUFFER ZONE:

MWD had stated numerous times that it normally purchases all land within 1/2 to 1 mile of the reservoir in order to preserve, manage and maintain its property.

The Newport Road/Darlene Lane properties fall well within 1/8 to 1/4 mile of the project, are within a heavy construction area and as stated above are surrounded by MWD's improvements.

5. DAMAGES:

a. Property Owners: The property owners will sustain damages as follows:

- (1). Temporary loss of marketability of property. During the 5-year term of the easement, there will be no marketability of the properties. Current and past attempts to sell parcels in the subject area have been unsuccessful due to MWD's construction and land use changes.
- (2). Decreased property value. Long term impacts of the MWD project will decrease the value of the property. Future land use will be significantly altered and limited because of the surrounding MWD improvements.
- (3). Loss of water wells. The blasting and installation of the 14 foot pipeline, industrial buildings, septic tanks and leach lines above the wells which supply water to the properties could damage and even destroy the source of their water.
- (4). Diminish quality of rural residency. Increased noise and dust from the heavy construction and increased traffic to and from the industrial buildings during the next 10 years will significantly affect the life style and land use of the subject properties.

(5). Flooding of lower properties. MWD has constructed large buildings, paved large areas and stripped the hills and vacant land east of and uphill from the subject properties. This has caused a tremendous increase in flood damages to the downhill properties. The recent installation of drainage improvements on Newport Road are totally inadequate and were unable to properly channel the runoff from the first storm of 1995. Water runoff went around the newly installed small culverts and onto all three properties on Newport Road.

(6). Loss of income from properties. Mr. and Mrs. Ripley have and will continue to suffer a loss of rental income from the property during the 5-year term of the easement, as will other property owners.

(7) Nuisance from pipeline construction. During the 5-year easement period and during the installation of the 14 foot pipeline, which will require blasting of the rock hillside and massive earth moving machines, the neighboring properties will undergo all the inconveniences of the heavy construction such as noise, dust and increased traffic.

b. MWD Damages. MWD will sustain possible damages as follows:

(1) MWD will be required to compensate the property owners the fair market value for their economic losses. This amount could be significant because of the business operations conducted on the subject properties. MWD could possibly save money by a full taking of the subject properties instead of pursuing the partial taking of the easement.

(2) MWD would minimize the potential legal costs and time delays by taking the entire group of parcels instead of seeking the 5-year easement.

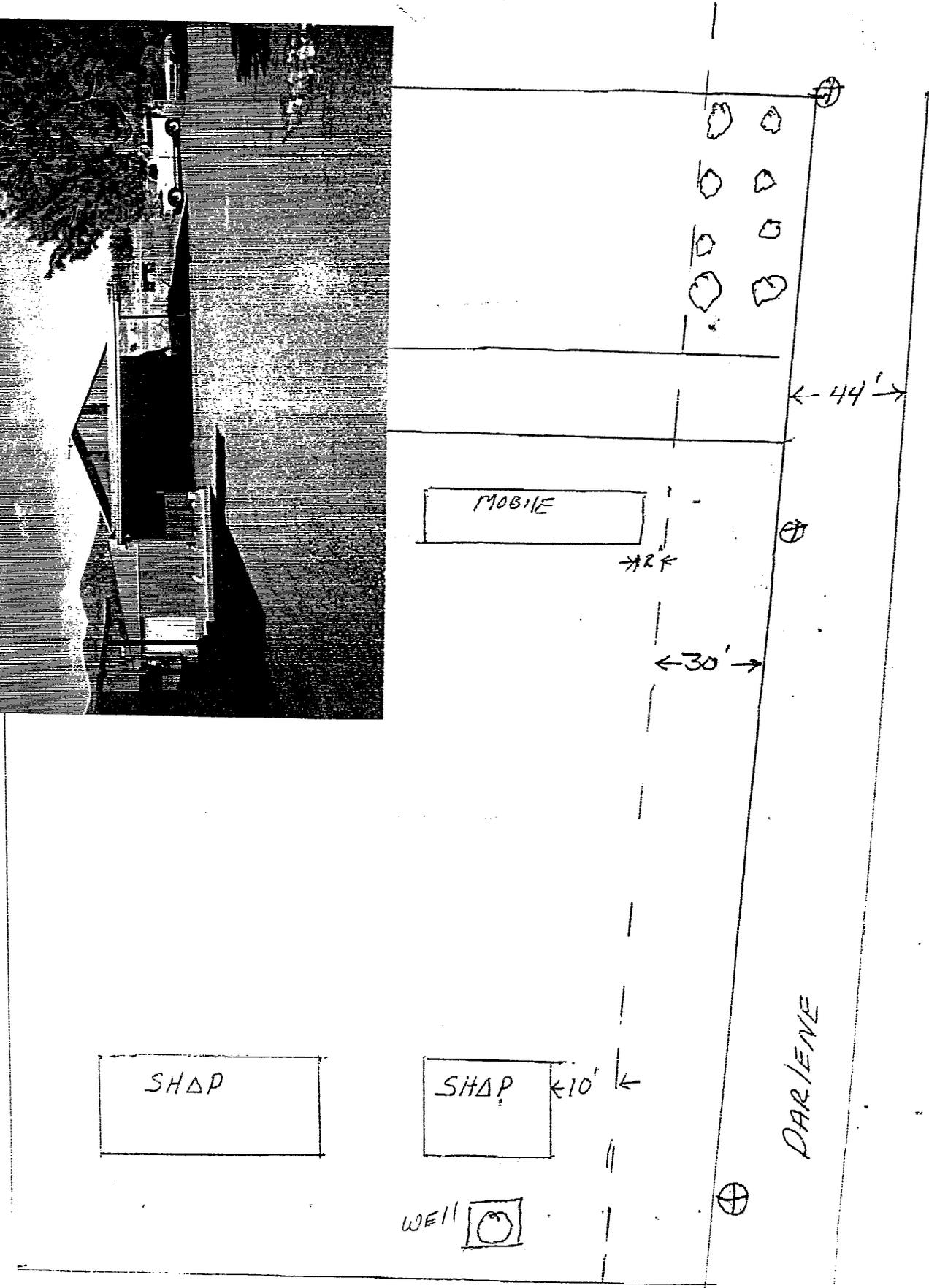
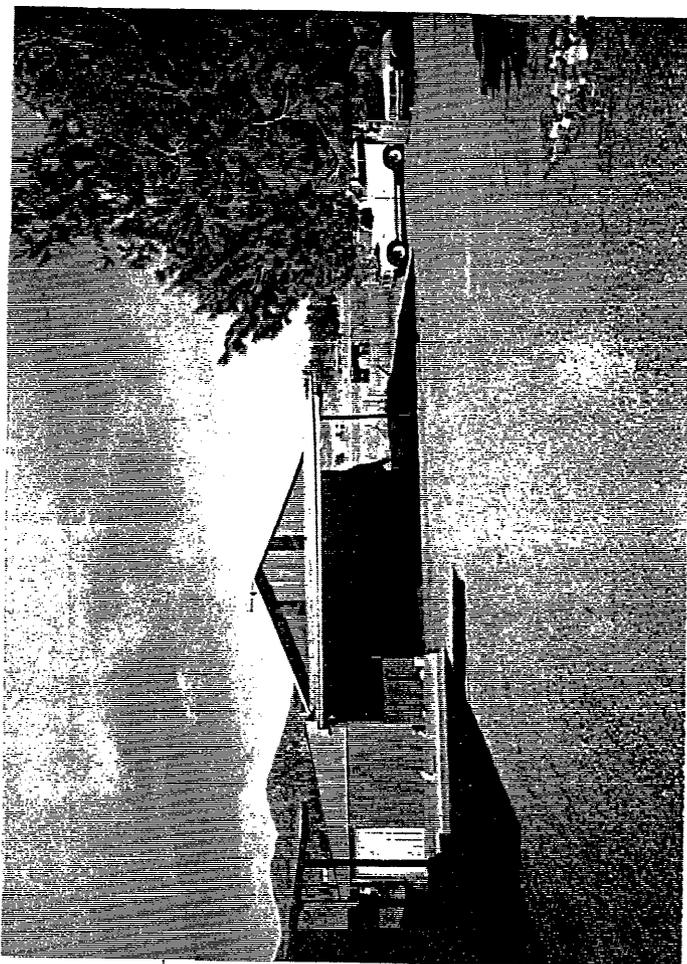
As part of the eminent domain requirements, MWD must find that its actions are for the greatest public benefit and with the least private injury. They must not impose hardships on the property owners. Furthermore, MWD cannot leave property in a condition as to be of little market value.

Mr. and Mrs. Ripley are not looking for a deep pocket, nor are the other property owners. Their only desire is to not suffer the economic losses, nor have to endure the other possible damages which will result from the 5-year easement.

MWD and the property owners will both benefit from a full taking of the properties in the Newport Road/Darlene Lane area. Thank you for your careful consideration of this matter.

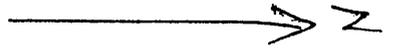
PLOT PLAN 33720 Newport Rd

41263



⊕ = Power Poles

33720 Newport Rd



MWD CANAL

NEWPORT RD

MWD PROPERTY

33720 Newport Rd

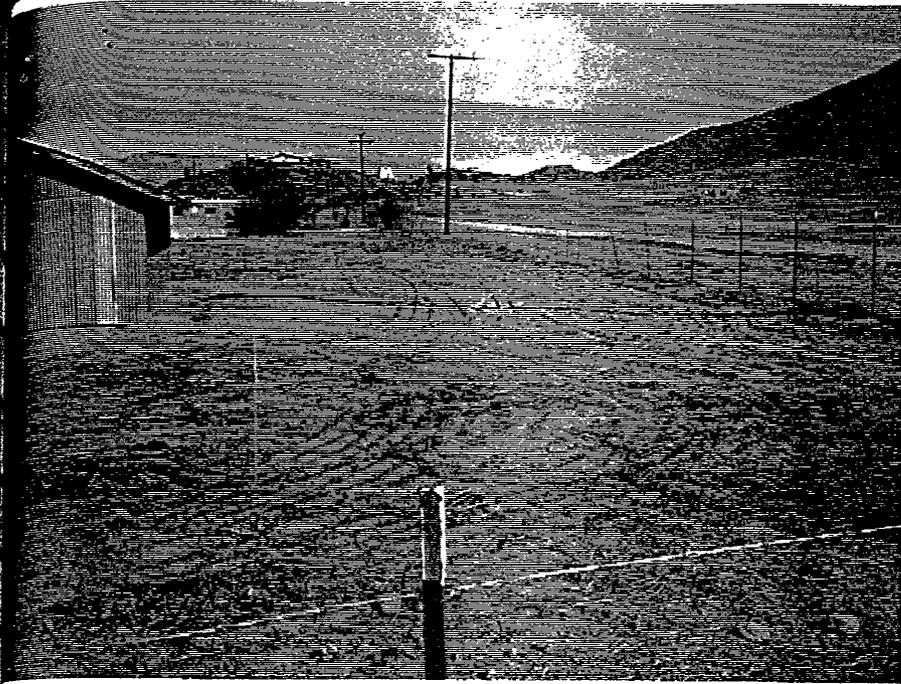
DARLENE LN

41263

MWD PROPERTY

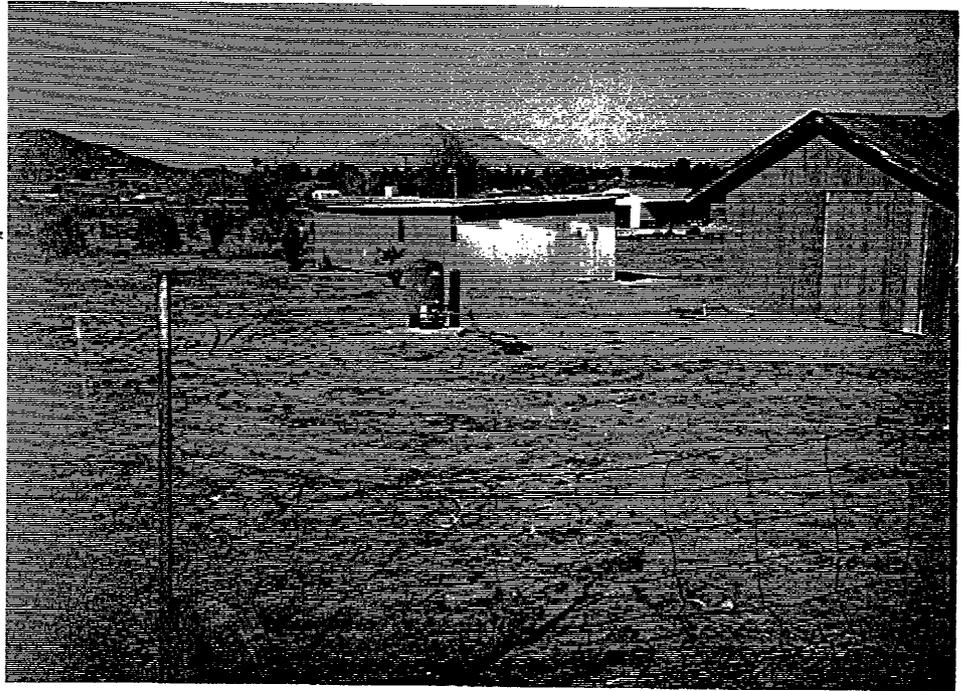
33720 New Port Rd. 41263

Looking North AT
PROPOSED 30' EASEMENT
APPROX 10' FROM SHOP IN
FOREGROUND AND APPROX
2' FROM MOBILE IN
BACK GROUND -



WELL ALSO CLOSE TO
PROPOSED EASEMENT →

Looking WEST FROM
PROPERTY LINE

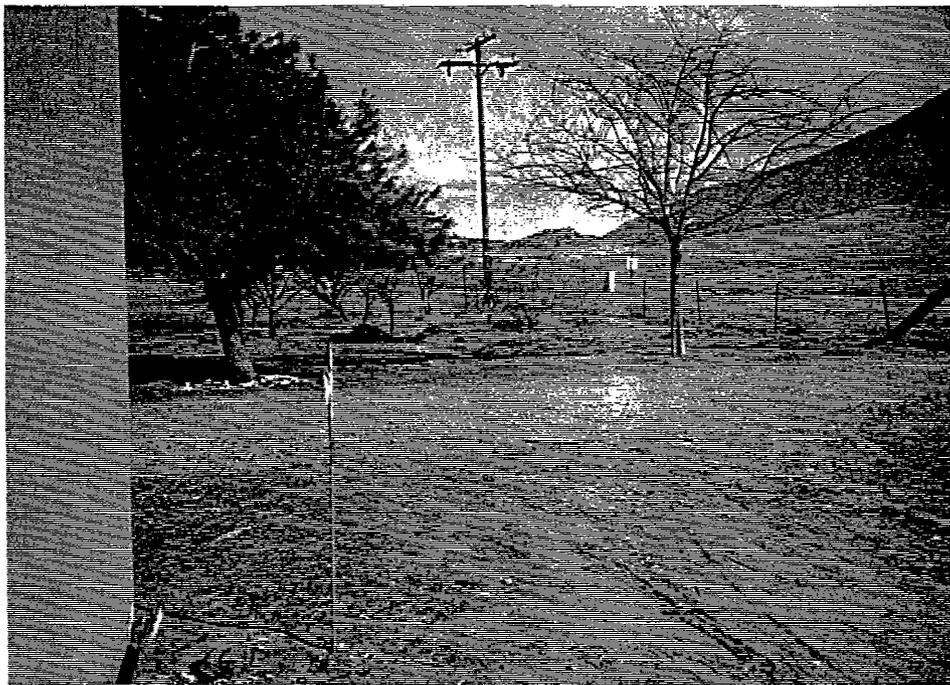


SHOP & WELL FROM
EASEMENT



Looking NORTH FROM
New Port Road



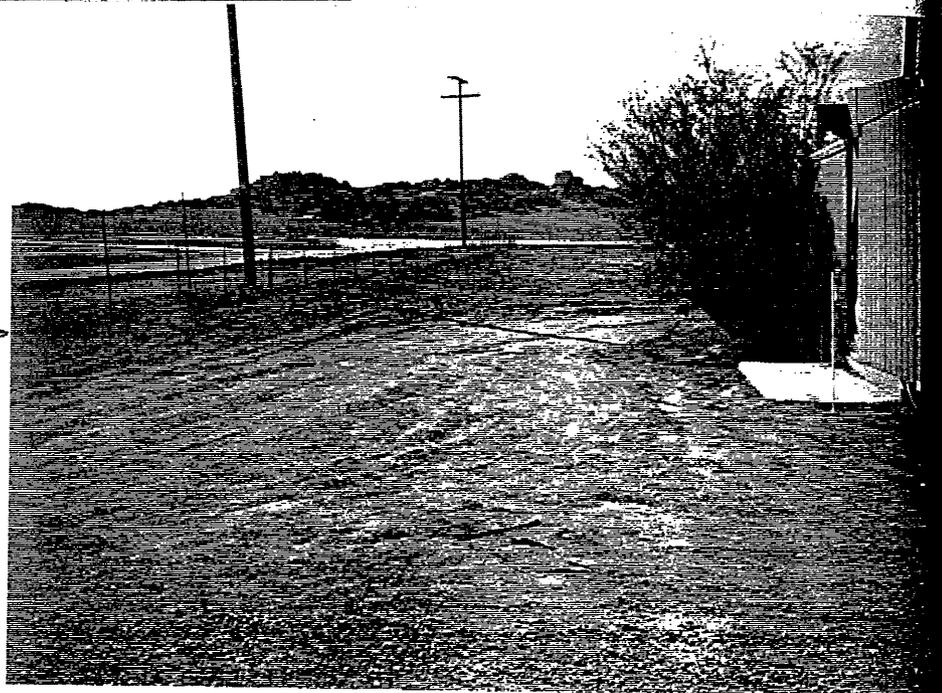


41263.

Looking NORTH
MOBILE ON LEFT WITH
EASEMENT STAKE
ALSO ALL TREES THAT
WOULD HAVE TO BE REMOVED
AS WELL AS A WELL IN
CENTER OF PICTURE



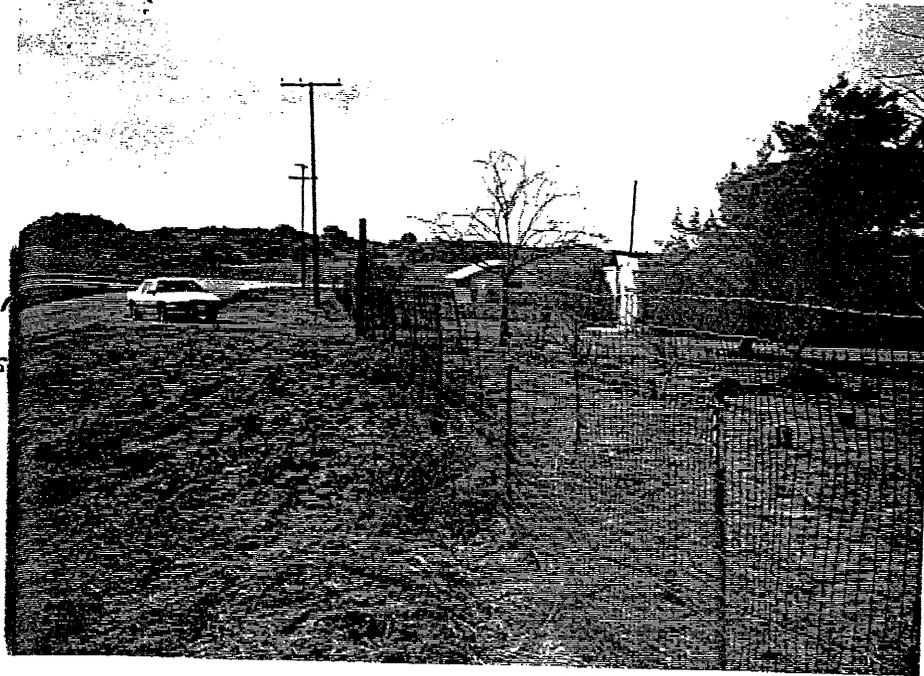
Looking SOUTH TO
NEWPORT ROAD ALSO
SHOWS STAKE AND
MOBILE



Looking NORTH

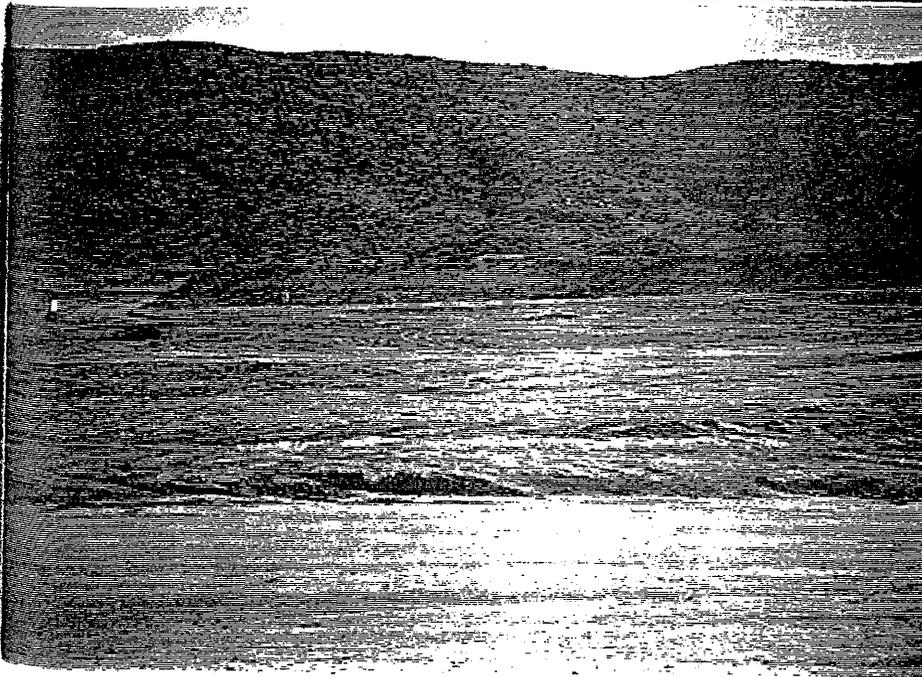
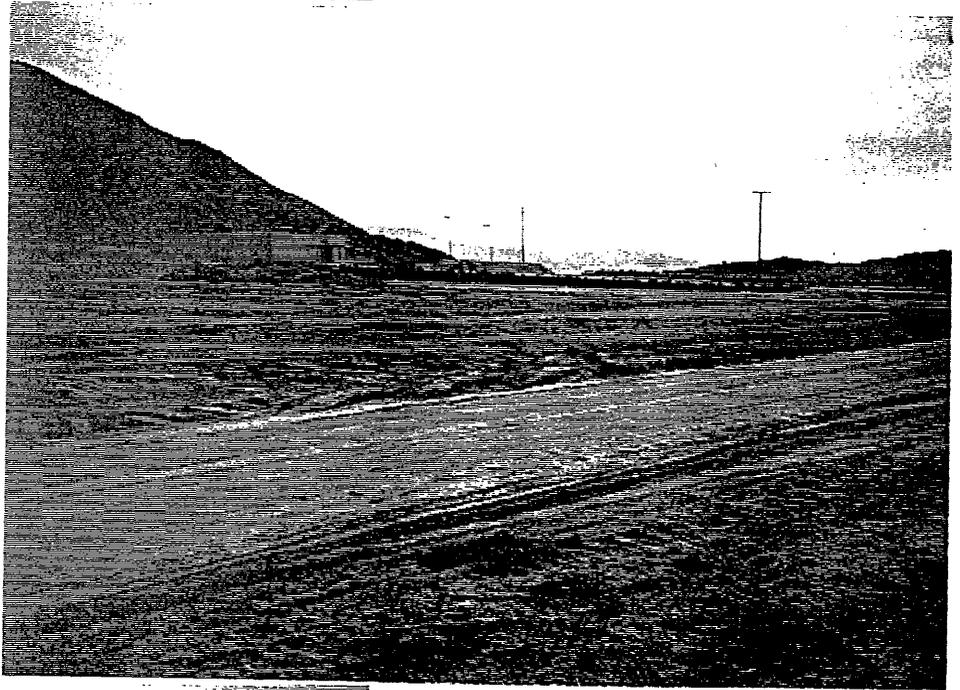


41263



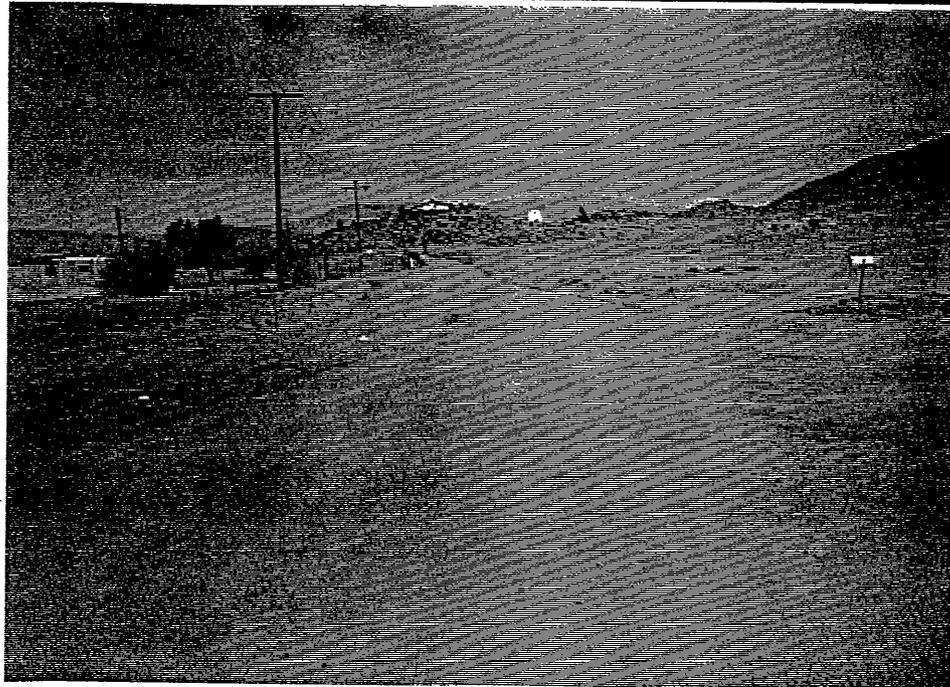
LOOKING SOUTH TO
NEW PORT RD
SOUTH OF NEW PORT 2'S
MWD PROPERTY -

LOOKING EAST OF
DARLENE TO NEW
MWD INDUSTRIAL BLDG.
(COMPLETED 1994) ALSO
ROUTE OF EASTSIDE
PIPELINE



LOOKING EAST OF
DARLENE AND NORTH OF
MWD BLDG -

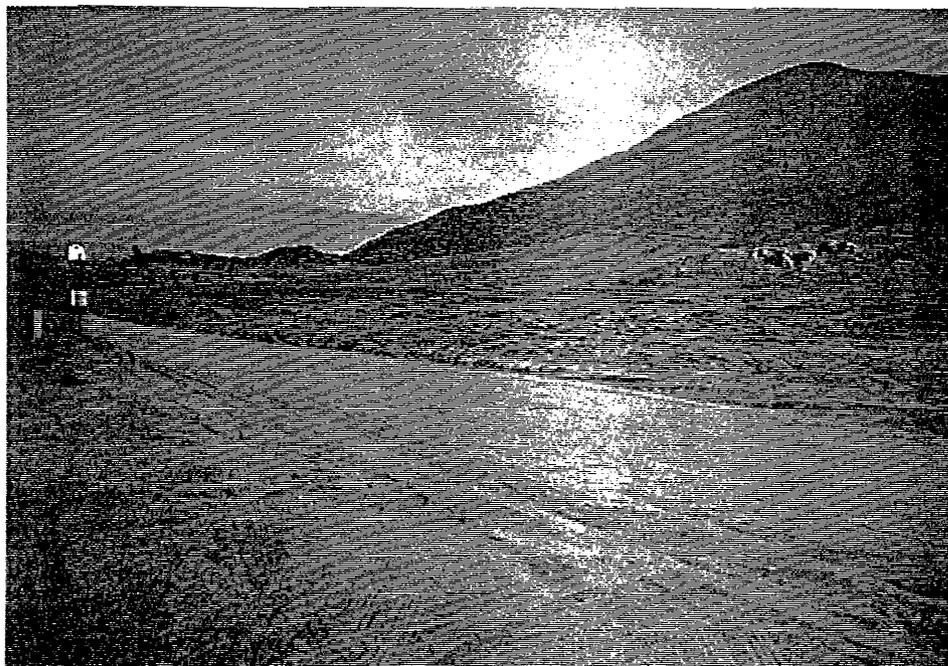
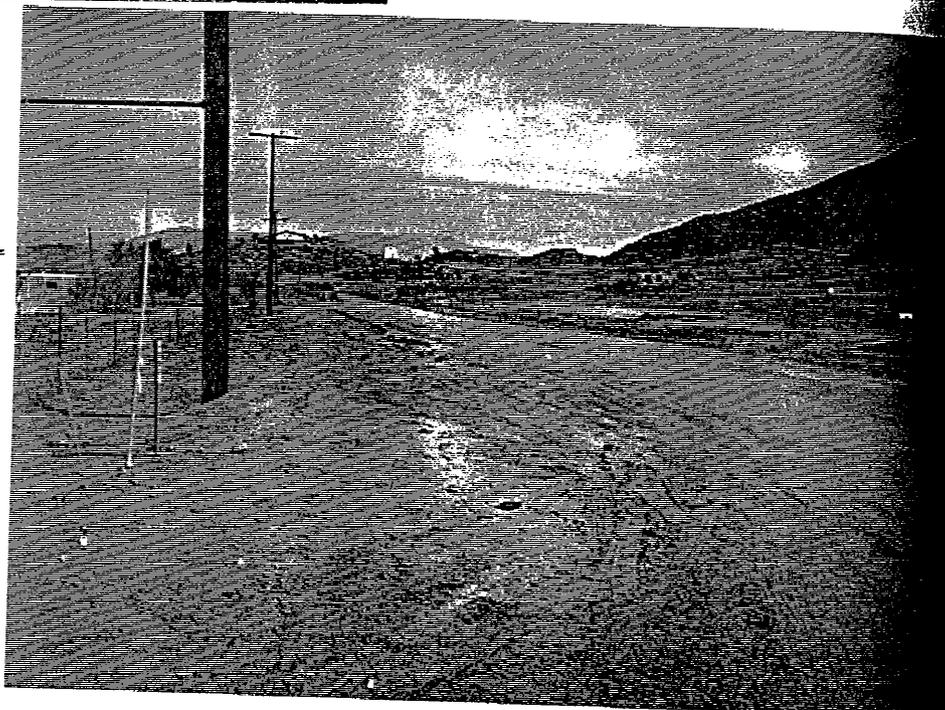
41263.



LOOKING NORTH AT
INTERSECTION OF DARLENE
AND NEWPORT RD.

← ALSO EASTSIDE PIPE LINE
ROUTE TO RIGHT (14' PIPE)

NORTH ON DARLENE RD



NORTH ON DARLENE ALSO
EAST SIDE OF DARLENE
WHICH ALL BELONGS TO
MWD AND SITE OF
EASTSIDE PIPELINE

RESOLUTION 8467

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 for the storage and transportation of water, and for the construction of the Eastside Pipeline in connection with the reservoir, in the County of Riverside, California, and that certain properties situated in the County of Riverside are necessary therefor.

Section 2. The properties to be acquired for the public use set forth in Section 1 hereof consist of the interests in the parcels of land described in Exhibit A attached hereto and incorporated herein by reference. The properties are located within the District's boundaries at the locations shown on Exhibit B attached hereto and incorporated herein by reference. The District's Board finds and determines that the properties are necessary for the proposed project.

Section 3. The District's Board of Directors hereby declares its intention to acquire the properties 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 properties.

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 properties and to take such steps as may be necessary to secure an order of court permitting the District to take possession of the properties 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 14th day of February, 1995, 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.

Executive Secretary
The Metropolitan Water District
of Southern California

Exhibit A

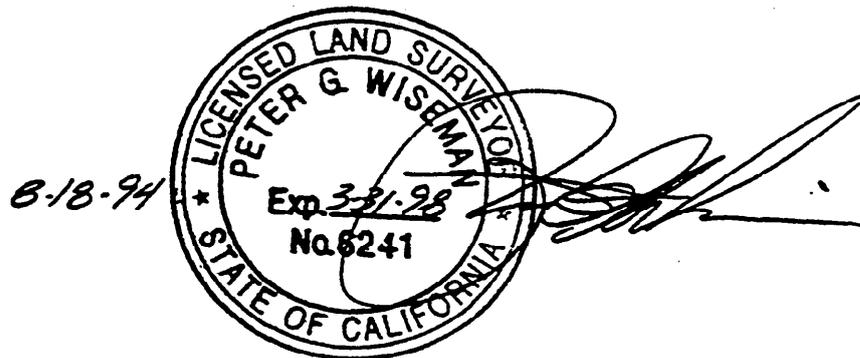
Temporary easements in, over and upon the property described as Parcels 144-1-311TEA1, 144-1-317TEA1, 144-1-319TEA1, and 144-1-321TEA1 for temporary public access and a temporary easement in, over and upon the property described as Parcel 144-1-321TEA1 for construction use during the period of construction of a water pipeline facility on land other than such described Parcels. The term of the easement shall be for two years commencing on the date possession of the Parcels is taken, or until completion of the construction, whichever is earlier. Reasonable access to the remainder of the properties over and across the easements shall be maintained at all times.

41263

EXHIBIT A

144-1-319TEA1
Suzanne Marie Bence

A strip of land 30 feet wide lying within Parcel 2 of Parcel Map No.17821 in the County of Riverside, State of California, as shown on map filed in Book 102, page 27 of Parcel Maps, records of said County, the westerly line of said 30 foot wide strip being parallel with and 30 feet westerly of as measured at right angles to the westerly line of Darlene Lane as shown on said Parcel Map, the sidelines of said strip are to be lengthened or shortened so as to terminate in the north and south lines of said Parcel 2, respectively.



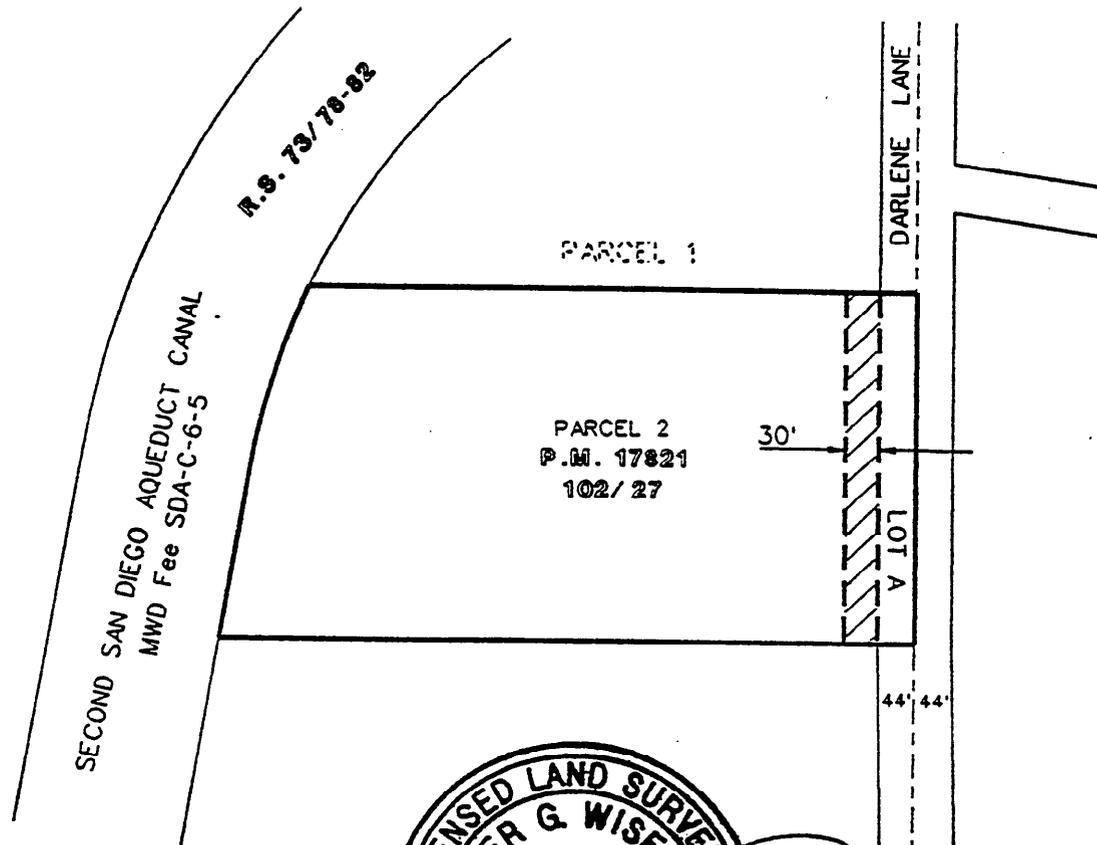
R.B./EP-1-319

Date: 8-16-94

EXHIBIT B

41263

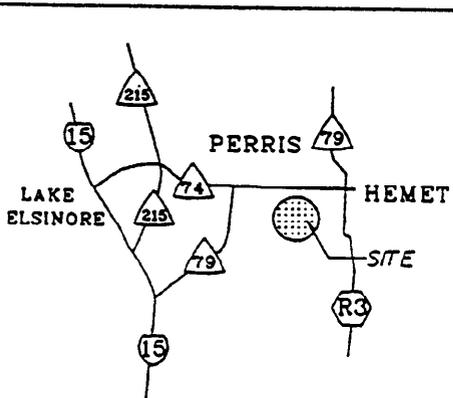
SE1/4 SEC. 34, T.5S. R.2W., S.B.M.
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



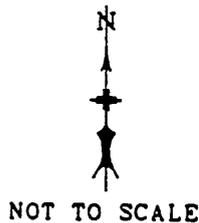
LEGEND

 TEMPORARY EASEMENT
144-1-319 TEA1
(0.297 ac. TOTAL)

VICINITY MAP
NOT TO SCALE



818-94



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

EASTSIDE PIPELINE PROJECT
TEMPORARY EASEMENT DEED

SUZANNE MARIE BENCE
TO
MWD

PARCEL 144-1-319TEA1

EXHIBIT A

144-1-317TEA1

Robert Mac Leish, et ux

The easterly 74 feet, as measured at right angles or radially to the easterly line of that portion of Parcel No. 1 of Parcel Map No. 6246 in the County of Riverside, State of California as shown on map filed in Book 17, page 74, of Parcel Maps, records of said County, as conveyed to Robert Mac Leish and Dorothy Mac Leish by Grant Deed recorded June 29, 1976, in Book 1976, page 92987, of Official Records of said County.

EXCEPTING therefrom that portion lying within Darlene Lane as shown on said Parcel Map.

R.B./EP-1-317

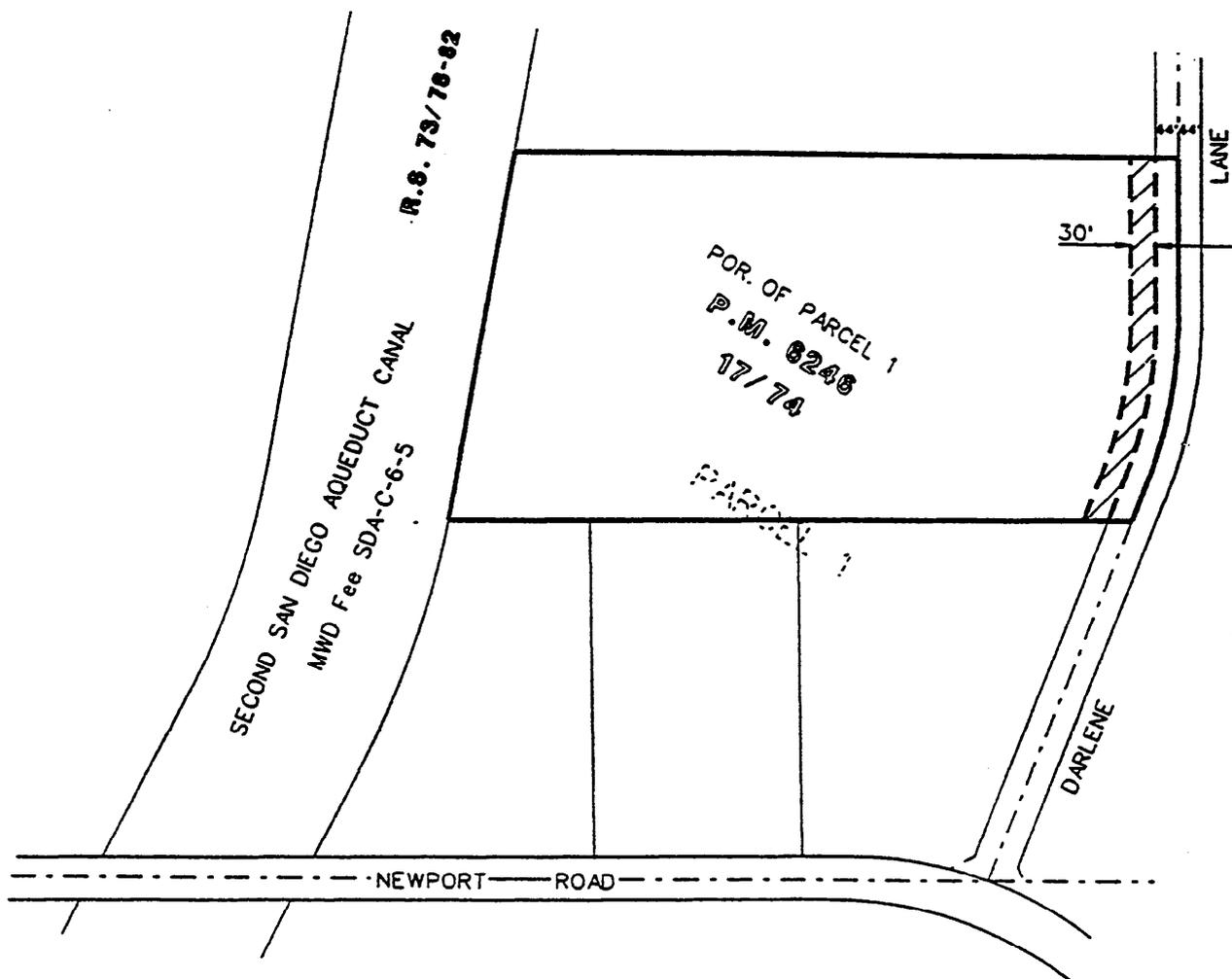
Date: 8-17-94

8-18-94

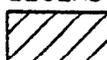


EXHIBIT B

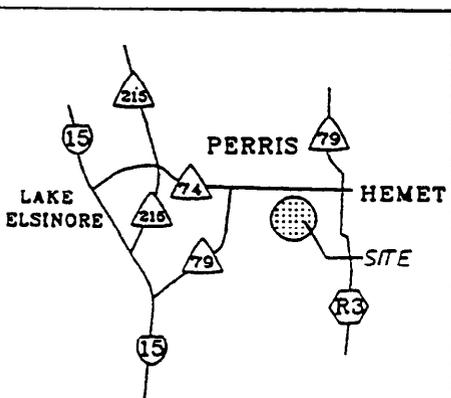
SE1/4 SEC. 34, T.5S. R.2W., S.B.M.
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



LEGEND

 TEMPORARY EASEMENT
144-1-317 TEA1
(0.287 ac. TOTAL)

VICINITY MAP
NOT TO SCALE



NOT TO SCALE

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

EASTSIDE PIPELINE PROJECT
TEMPORARY EASEMENT

ROBERT MAC LEISH et ux
TO
MWD

PARCEL 144-1-317TEA1

EXHIBIT A

144-1-321TEA1
Glen Richey, et ux

All that portion of Parcel 1 of Parcel Map No. 17821 in the County of Riverside, State of California as shown by map filed in Book 102, page 27 of Parcel Maps, Records of said County, lying easterly of the following described line:

Commencing at the southwest corner of Lot B of said Parcel Map; thence N 90° 00' 00" W 30.00 feet along the south line of said Parcel 1 to the TRUE POINT OF BEGINNING; thence N 0° 00' 00" E 629.71 feet to the northerly line of said Parcel 1.

EXCEPTING therefrom all that portion lying within said Lot B.

R.B./EP-1-321

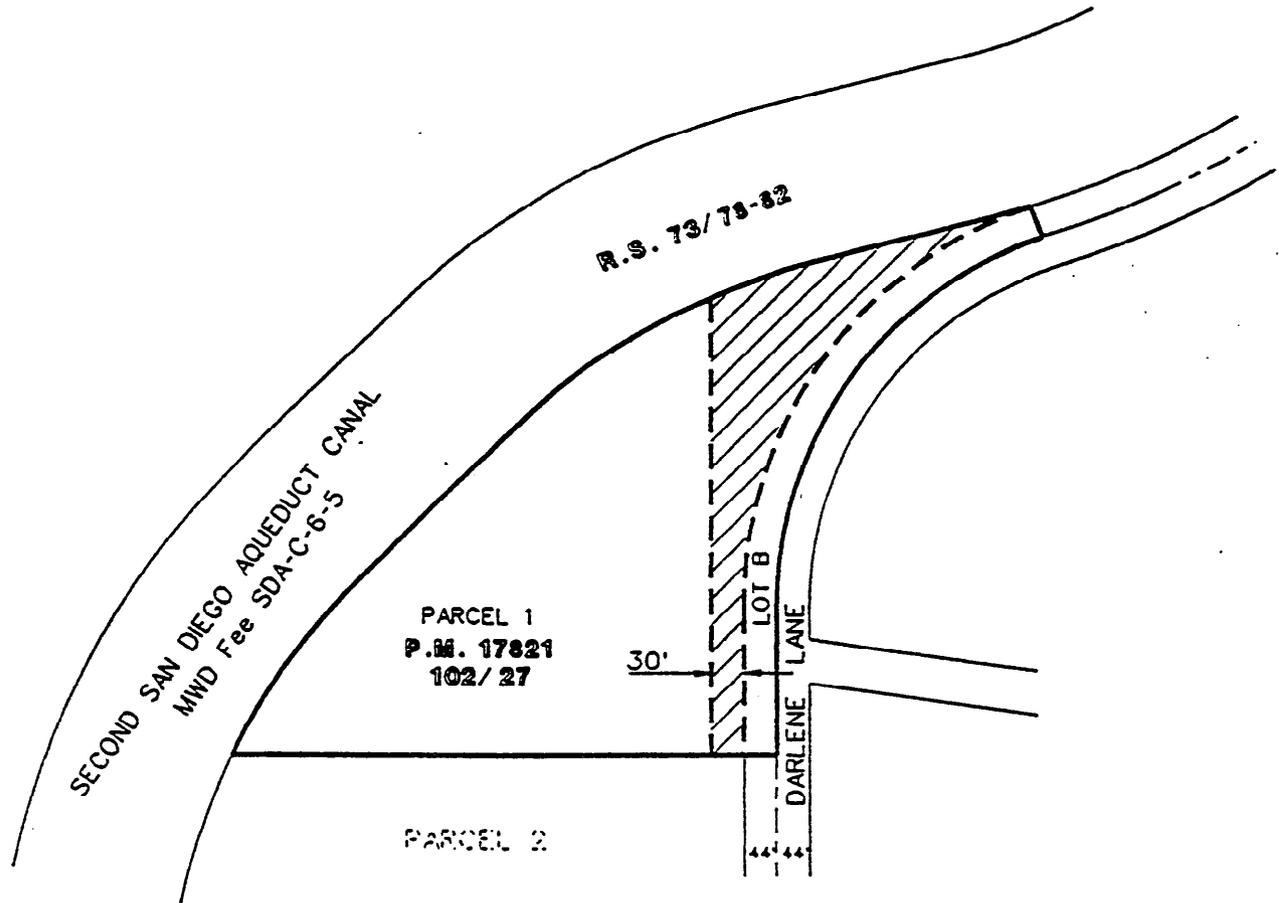
Date: 8-16-94



EXHIBIT B

41263

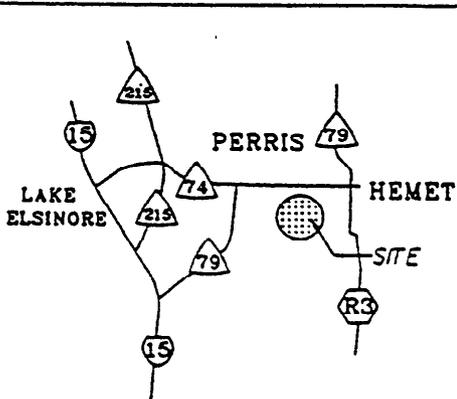
SE 1/4 SEC. 34, T.5S. R.2W., S.B.M.
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



LEGEND

 TEMPORARY EASEMENT
144-1-321 TEA1
(1.296 ac. TOTAL)

VICINITY MAP
NOT TO SCALE



NOT TO SCALE



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

EASTSIDE PIPELINE PROJECT
TEMPORARY EASEMENT

GLEN RICHEY, et ux
TO
MWD

PARCEL 144-1-321TEA1

EXHIBIT A

144-1-311TEA1
Jack W. Ripley, et ux

The easterly 74 feet, as measured at right angles or radially to the easterly line of that portion of Parcel No. 1 of Parcel Map No. 6246 in the County of Riverside, State of California, as filed in Book 17, page 74, of Parcel Maps, records of said County, as conveyed to Jack W. Ripley and Gladys E. Ripley by Grant Deed recorded January 3, 1991, as Instrument No. 3320, of Official Records of said County.

EXCEPTING therefrom all that portion lying within Darlene Lane as shown on said Parcel Map.

R.B./EP-1-311

Date: 8-17-94

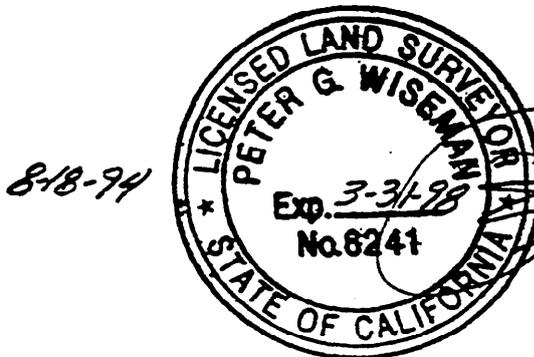
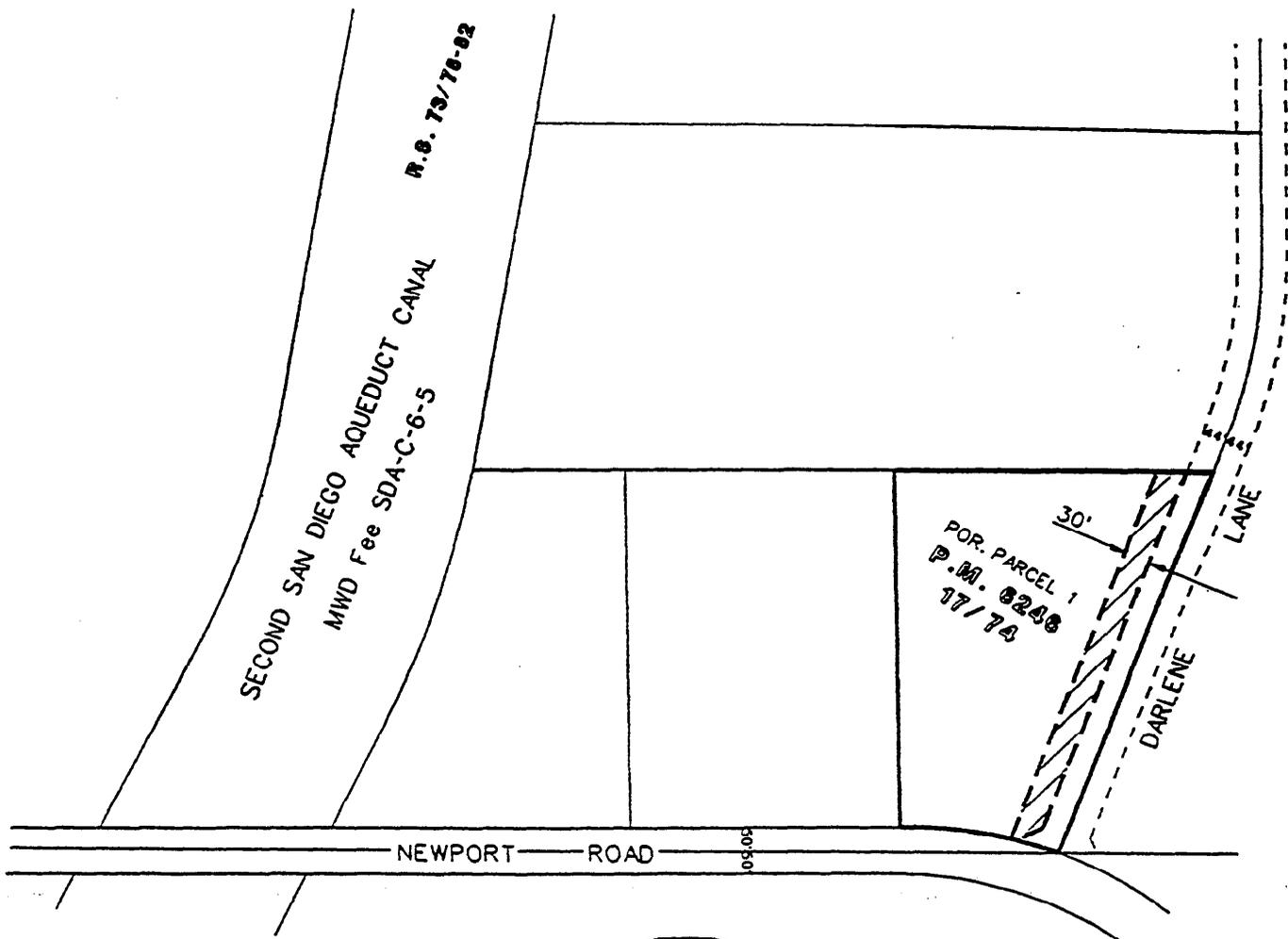


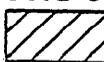
EXHIBIT B

41263

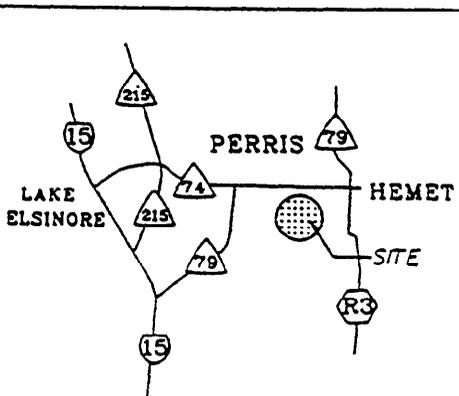
SE1/4 SEC. 34, T.5S. R.2W., S.B.M.
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



LEGEND

 TEMPORARY EASEMENT
144-1-311 TEA1
(0.286 ac. TOTAL)

VICINITY MAP
NOT TO SCALE



NOT TO SCALE

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

EASTSIDE PIPELINE PROJECT
TEMPORARY EASEMENT

JACK W. RIPLEY, et ux
TO
MWD

PARCEL 144-1-311TEA1