

MAR 12 1996

8-10



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Dore Chiu
for EXECUTIVE SECRETARY

February 21, 1996

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

From: General Manager

Submitted by: Gary M. Snyder
Chief Engineer

Timothy D. ...
Gary M. Snyder

Subject: Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in San Bernardino County, California, identified by San Bernardino County Assessor's Parcel Numbers 1199-291-06, -341-01 and -271-02, MWD Right-of-Way Parcel Numbers INFED1-29-260 and 261, and Owner's Name: Stubblefield Construction Company.

RECOMMENDATION(S)

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 properties described in Exhibits A and B, attached thereto, and directing the General Counsel to commence condemnation proceedings in San Bernardino County to acquire the properties.

EXECUTIVE SUMMARY

The Metropolitan Water District will require the real property described in Exhibits A and B, attached hereto, located in San Bernardino County, California, for portions of the Inland Feeder Pipeline Project. An offer to purchase the properties as required by California Government Code section 7262.2 was made, but no agreement has been reached. A Resolution of Necessity is recommended to authorize the commencing of an eminent domain action to acquire the properties.

DETAILED REPORT

At its meeting on February 12, 1996, 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 described in Exhibits A and B attached hereto. At the conclusion of the hearing, the Land Committee voted unanimously to recommend that the Resolution of Necessity be adopted.

On January 23, 1996, a notice of intention to adopt a Resolution of Necessity and for an opportunity to appear and be heard before the Land Committee on February 12, 1996 as to the necessity for the Project and the taking of the properties was served on the owner of the properties identified in Exhibits A and B. Under the law Metropolitan must have received a written request for a hearing within 15 days after the notice was served. A request to appear was received from Mr. Tom Parrish on behalf of Stubblefield Construction Co. A quorum of the Committee was present and a hearing held. 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.

On February 9, 1993, your Board certified that the Final Environmental Impact Report for the Inland Feeder 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.

A copy of the Final Environmental Impact Report, the staff report regarding the subject properties together with the supporting tunnel and pipeline feasibility reports, and the geotechnical data reports pertaining to the Project and the subject properties are available in the Executive Secretary's office for review.

**SUMMARY OF HEARING AND RECOMMENDATION
OF THE LAND COMMITTEE REGARDING ADOPTION
OF A RESOLUTION OF NECESSITY TO CONDEMN
CERTAIN PROPERTY FOR THE INLAND FEEDER PROJECT**

On February 12, 1996, at the offices of The Metropolitan Water District of Southern California, a hearing was held by the Land Committee of the Board of Directors. Land Committee Chairman Doude Wysbeek presided. The Committee was called to order and a quorum was present.

Deputy General Counsel Joseph Vanderhorst advised the Committee that the California Eminent Domain Law requires a hearing prior to the adoption of a Resolution of Necessity, which authorizes the commencement of an eminent domain action. The purpose of the hearing is to determine whether the public interest and necessity require the proposed project, 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 described in the resolution is necessary for the project. Mr. Vanderhorst advised the Committee that an offer to purchase the property at issue had been made and a copy of the offer was added to the record. He further stated that notice of the hearing had been given to the property owner, Stubblefield Construction Company, and Mr. Tom Parrish had made a request to appear and be heard.

Inland Feeder Project Manager James Gallanes made a presentation regarding the Project and the properties sought to be acquired. He described the Project as a tunnel and pipeline facility to convey water from Devil's Canyon in the San Bernardino Mountains to Lake Mathews and the Eastside Reservoir. The Project will come out of a tunnel under the mountains and cross Highway 330 near Highland Avenue in San Bernardino. In this area the Project will cross the San Andreas fault zone. Metropolitan performed geological studies to investigate the fault locations, and reviewed the surrounding properties to determine the potential impacts of potential alignments on the area. As a result of this work, it was decided that the best location for the Project was to cross Highway 330 as far north as possible, and install the pipeline on the east side of the highway. In the event of a shift on the fault lines which causes a rupture in the pipeline, this alignment will result in the least damage to property, and create the least danger.

Mr. Gallanes then described the property that is sought to be acquired on both sides of Highway 330. Parcel INFED1-29-261, located west of Highway 330, is necessary for the tunnel portal site. Parcel INFED1-29-260, on the east side of the highway, will be used for the pipeline alignment, as well as a deposit site for tunnel spoil, and other construction activities.

Mr. Parrish then made a presentation on behalf of the property owner. He stated that Stubblefield is a San Bernardino building firm that has been active in the area since the 1950's. Their concern is that putting the pipeline alignment on the east side of the highway will take away property that is part of a master plan for development of their larger property holdings. In particular he noted that the acquisition on the west side will take away an access road that was planned as part of expansion of a mobile home park on other property. Despite many years of geotechnical work, they believe that no one has been able to locate the San Andreas fault. Therefore, he requested that additional study be performed before an alignment on the west side of the highway is rejected.

Mr. Vanderhorst advised the Committee that in response to the issue raised by the owner regarding access across Parcel INFED1-29-261, an easement for an access road and utilities has been reserved in the description of the taking. At the request of Metropolitan's special counsel, Ross Keagy, the geotechnical reports performed by Metropolitan were added to the administrative record.

Director Little inquired into the safety issues connected with the pipeline alignment. Mr. Gallanes responded that the alignment was adopted to provide a crossing of the San Andreas mid-fault in an area that reduces potential damages and injury in the event of a rupture. This alignment is recommended by the Engineering staff as a safeguard to the community.

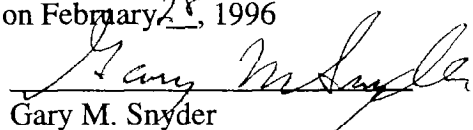
Director Little moved to recommend that the Board of Directors adopt the Resolution of Necessity. The motion was seconded by Director Grandsen, and approved unanimously by the Committee.

STATEMENT OF GARY M. SNYDER IN SUPPORT OF
RESOLUTION OF NECESSITY (INLAND FEEDER 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 conveyance facility (Inland Feeder) in the County of San Bernardino, California, for the transportation and distribution of water for use within the District's boundaries. This facility will be constructed upon the properties referenced on Exhibits A and B attached to the Resolution of Necessity transmitted herewith.
3. Acquisition of the properties identified in the Resolution of Necessity is necessary for the construction of tunnels, portals and pipelines for the Inland Feeder.
4. So that it may be assured that Metropolitan will have possession and may proceed with work, it is necessary that the resolution be adopted in order that an action may be commenced to condemn the properties described in the proposed Resolution of Necessity, and a court order obtained authorizing Metropolitan to take possession of the properties.

Executed at Los Angeles, California on February 28, 1996


Gary M. Snyder

RESOLUTION 8494

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
DIRECTING THE CONDEMNATION OF CERTAIN PROPERTIES
SITUATED IN SAN BERNARDINO COUNTY (INLAND FEEDER PROJECT)

BE IT RESOLVED by the Board of Directors of the Metropolitan Water District of Southern California.

Section 1. The District's Board hereby finds and determines that the public interest and necessity require, for public use, the construction, operation and maintenance of water conveyance facilities ("Inland Feeder Project") in the County of San Bernardino, California, for the transportation and distribution of water for use within the District's boundaries and that certain properties situated in the County of San Bernardino are necessary therefor.

Section 2. The properties to be acquired for the public use set forth in section 1 hereto consist of the Parcels of land described on Exhibit A attached hereto and incorporated herein by reference and shown on Exhibit B attached hereto and incorporated herein by reference.

Section 3. The District's Board hereby declares its intention to acquire the properties described in Exhibits A and B attached, by proceedings in eminent domain as authorized by the Metropolitan Water District Act (Stats. 1969, Ch. 209, as amended) and Code of Civil Procedure section 1240.125.

Section 4. The District's Board hereby finds and determines that the public interest and necessity require the proposed Project.

Section 5. The District's Board hereby finds and determines that 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 6. The District's Board hereby finds and determines that the properties described in Exhibits A and B attached hereto are necessary for the proposed Project.

Section 7. The District's Board hereby finds and determines that the offers required by Government Code section 7267.2 have been made to the owner(s) of record of the properties described in Exhibit A and B attached hereto.

Section 8. The District's General Counsel is hereby directed to commence proceedings in the Superior Court of California, County of San Bernardino, for the purpose of condemning and acquiring the properties described in Exhibits A and B attached hereto, and to take such steps as may be necessary to secure an order of court permitting the District to take possession of the properties described in Exhibits A and B attached hereto for the uses and purposes herein described. He is authorized to take such actions and steps as he deems necessary

in connection with such proceedings, including the amending of the complaint to reduce the extent of the properties to be acquired so as to reduce the compensation payable in the action where such change could 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 regular meeting of the Board of Directors of The Metropolitan Water District of Southern California held the 12th day of March, 1996, 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

1. Fee interest in the property described herein as Parcel INFED1-29-260.

2. Fee interest in the property described herein as Parcel INFED1-29-261, reserving to Condemnee an easement for access and utilities 40 feet in width, together with such additional area as necessary for purposes of, and to be used during construction and maintenance of, roadway and/or utility improvements, at a location to be agreed upon by Condemnee and Condemnor within the southerly 300 feet of said Parcel, said 300 feet to be measured from the most southerly point of said Parcel northerly along the westerly line of the property conveyed to First American Title Insurance Company by Director's Deed recorded August 25, 1995 as Document No. 19950293558, Official Records of County of San Bernardino, State of California.

The reserved easement shall be appurtenant to Condemnee's remainder property contiguous to, and located westerly of, said Parcel, and is subject to and reserved on the following conditions:

a. Without the express written consent of Condemnor, first had and obtained, Condemnee shall not:

(1) For a period commencing with the date Condemnor takes possession of said Parcel and ending five years thereafter, or upon completion of construction work on Condemnor's Inland Feeder Project on said Parcel, whichever first occurs, use the easement for any purpose whatsoever, including uses and purposes for which this easement is reserved, and including making or authorizing any improvements of any nature, kind, or description whatsoever.

(2) After the expiration of the five year term or completion of Condemnor's Inland Feeder Project construction work on said Parcel, whichever first occurs, make or authorize the making of any improvement to the easement area, including but not limited to grading, paving, ancillary improvements, and changes in elevation.

b. In the event Condemnee wishes to make improvements within the easement area, Condemnee shall furnish Condemnor with a complete set of all plans and specifications for any grading or improvements it desires to make. Such plans shall be prepared by a licensed professional engineer, and shall be in sufficient detail and scope as to allow Condemnor to reasonably ascertain and determine the nature, quality, and type of the improvements and grading sought to be made by Condemnee. Condemnor's approval of Condemnee's proposed improvements shall not be unreasonably

withheld. As used herein, the term 'unreasonably withheld' shall be interpreted as allowing the imposition by Condemnor of such additional conditions and requirements as to uses, the nature, quality, and type of improvements to be made, and the grading and resulting elevations which will not result in the completed improvements being detrimental to the pipelines, tunnels, portals, access roads and appurtenances installed or to be installed by Condemnor within the Parcel over which the easement is reserved. Condemnee further agrees that Condemnor may reasonably impose such other general conditions to its improvement as are reasonable in view of Condemnor's ownership and use of the underlying fee, including, but not limited to construction, general conditions, hours of work, insurance protection, the qualification of subcontractors, bonding and surety requirements, and the approval of other affected governmental agencies.


c. Condemnee acknowledges that if this easement is dedicated to public use, the agency shall accept such dedication upon condition that in the event the Condemnor deems it necessary or desirable at any time or from time to time, to repair, replace, or relocate any pipelines, tunnels, portals, access roads, or appurtenances within the Parcel over which the easement is reserved, or to add new pipelines, tunnels, portals, access roads, and appurtenances, or any combination of the foregoing, within the Parcel, (collectively, repair work) and such repair work results in damage or destruction to any of the improvements made or constructed by Condemnee or the public agency within the easement area, or the interruption of any uses of the easement area, Condemnor shall have the absolute right to do and perform all such repair work and to interrupt the use of the easement for such period or periods as is necessary to complete the repair work without cost or compensation to Condemnee or the public agency. Condemnor shall have no obligation to restore any improvements damaged or destroyed by such repair work. The public agency's rights to the easement area are subject to and subordinate to the rights of Condemnor.

EXHIBIT A

INFED1-29-261
First American Title
Insurance Company,
Trustee

That portion of the northwest quarter of Section 27, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California, conveyed to First American Title Insurance Company by Director's Deed recorded August 25, 1995 as Document No. 19950293558, Official Records of said County.

PREPARED UNDER MY SUPERVISION


Peter G. Wiseman P.L.S. 6241

10/16/95
Date

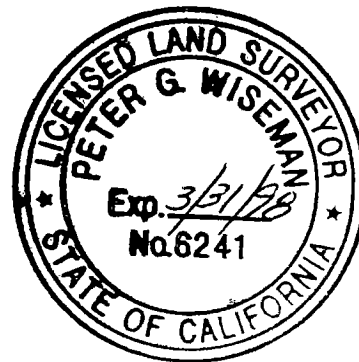


EXHIBIT A

INFED1-29-260
 First American Title
 Insurance Company,
 Trustee

Those certain parcels of land hereinafter designated as Parcel A and Parcel B, lying within the west half of Section 27, and lying within the southeast quarter of Section 28, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Parcel A

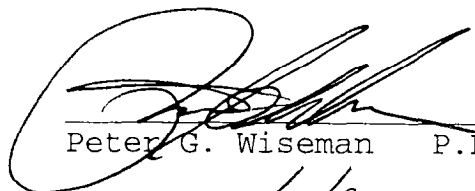
Parcels 1 and 2 as conveyed to First American Title Insurance Company by Director's Deed recorded August 25, 1995, as Document No. 19950293556, of Official Records of said County.

EXCEPTING therefrom all that portion conveyed to the State of California by Grant Deed recorded August 25, 1995, as Document No. 19950293557, of Official Records of said County.

Parcel B

That certain parcel of land conveyed to First American Title Insurance Company by Director's Deed recorded August 25, 1995, as Document No. 19950293559, of Official Records of said County.

PREPARED UNDER MY SUPERVISION


 Peter G. Wiseman P.L.S. 6241
 Date 12/1/95

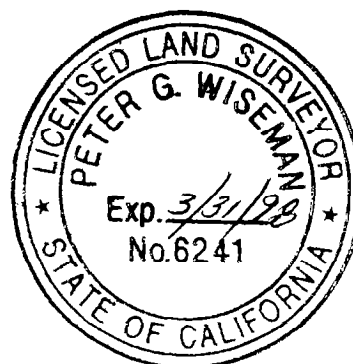


EXHIBIT B

"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"

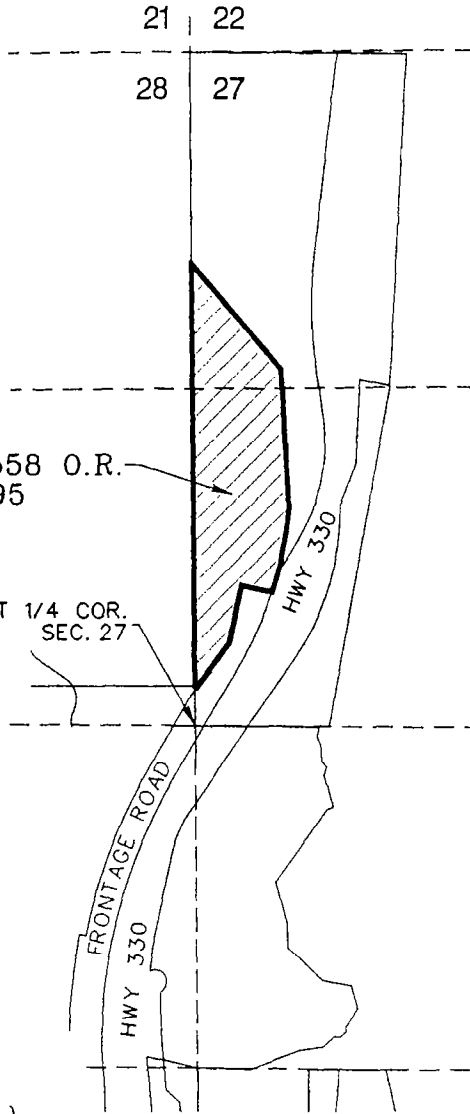
POR. SEC. 27, T. 1 N., R. 3 W., S.B.M.,
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



NOT TO SCALE

DOC. * 19950293558 O.R.
REC. 8-25-95

WEST 1/4 COR.
SEC. 27

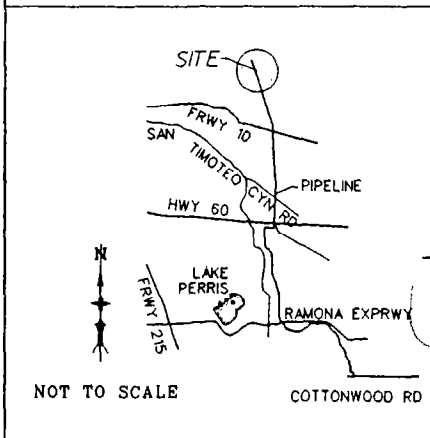


LEGEND



GRANT DEED
INFED1-29-261
(9.487 AC. TOTAL)

VICINITY MAP



PREPARED UNDER
MY SUPERVISION



Peter G. Wiseman
Peter G. Wiseman P.L.S. 6241

DATE

10/10/95

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

INLAND FEEDER
GRANT DEED
FIRST AMERICAN TITLE INSURANCE
COMPANY, TRUSTEE
TO
MWD
INFED1-29-261

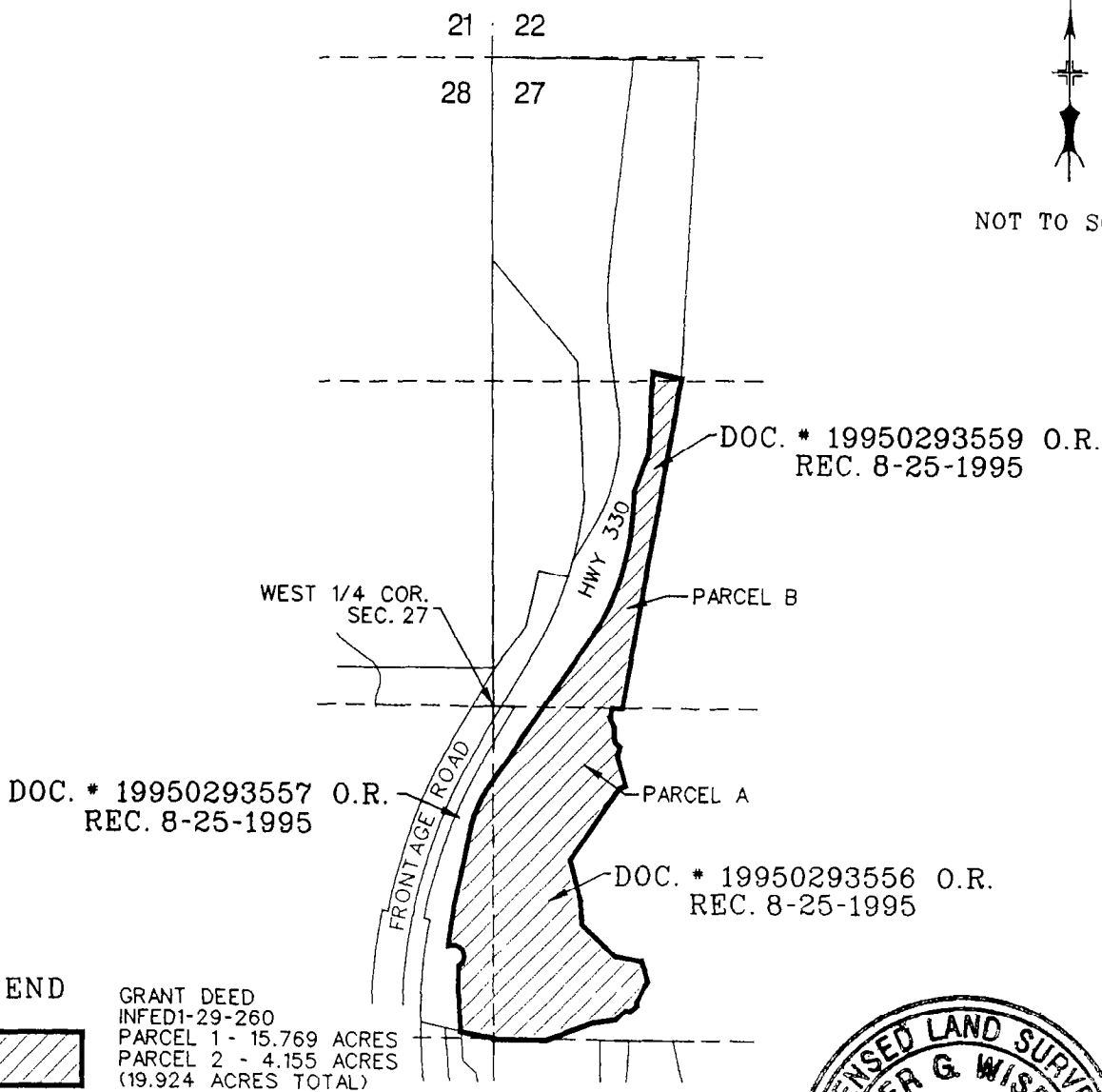
EXHIBIT B

"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"

POR. SEC. 27 AND 28, T. 1 N., R. 3 W., S.B.M.,
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



NOT TO SCALE

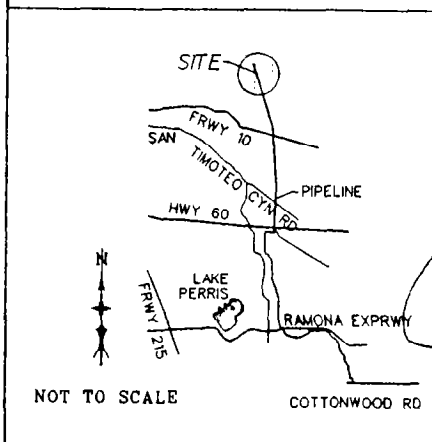


LEGEND

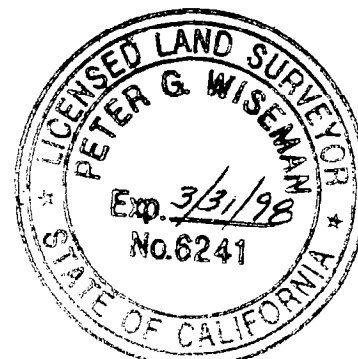


GRANT DEED
INFED1-29-260
PARCEL 1 - 15.769 ACRES
PARCEL 2 - 4.155 ACRES
(19.924 ACRES TOTAL)

VICINITY MAP



PREPARED UNDER
MY SUPERVISION



Peter G. Wiseman P.L.S. 6241

DATE

12/1/95

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

INLAND FEEDER
GRANT DEED
FIRST AMERICAN TITLE INSURANCE
COMPANY, TRUSTEE
TO
MWD
INFED1-29-260