



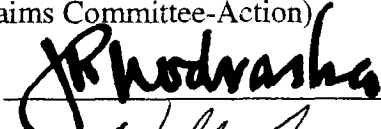
**MWD**

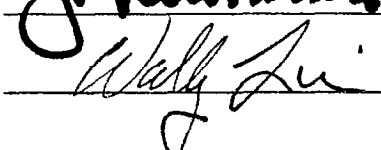
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

**8-9**

March 5, 1997

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

**From:** General Manager   
\_\_\_\_\_

**Submitted by:** Gary M. Snyder  
*fa* Chief Engineer   
\_\_\_\_\_

**Subject:** Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in Riverside County, California, identified by Riverside County Assessors' Parcel Numbers 426-160-020, 425-170-003, MWD Right-of-Way Parcel Numbers INFED1-05-160, and INFED1-05-130TEA1, and Owners' Name: Frank W. Lauda, Jr. [**Two Thirds Vote Required**]

## RECOMMENDATION

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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 Riverside County to acquire the properties.

## EXECUTIVE SUMMARY

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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 Inland Feeder Pipeline Project. Offers to purchase the properties as required by California Government Code section 7267.2 were made, but no agreement has been reached. A resolution of necessity is recommended to authorize the commencing of a eminent domain action to acquire the properties.

## **DETAILED REPORT**

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The portion of the Inland Feeder Project to be constructed in the Lakeview area of Riverside County will be located within Metropolitan's existing right-of-way that was acquired for the Colorado River Aqueduct. However, additional property is required to provide space for construction equipment and placement of spoil material during trench excavation without overburdening the existing pipeline facilities. For that reason, Metropolitan's staff has sought to acquire 150-foot wide easements for the construction work adjacent to the existing right of way.

The two parcels which are the subject of the proposed resolution of necessity are a part of two groups of property owned by Frank Lauda, Jr., as trustee of a family trust. The easterly group of Lauda properties are located at Fourth Street and Lakeview Avenue. This group consists of two parcels bisected by the existing Metropolitan right-of-way. Parcel INFED1-05-130TEA1 is a 150-foot temporary easement over the northerly of the two parcels. The easement would encumber approximately 1.25 acres of the 3.5-acre parcel for a period of five (5) years. The subject property is vacant land. Metropolitan's appraisal of the temporary easement and damage to the remainder is \$17,500 based on a land value of \$10,000 per acre.

The westerly group of Lauda properties is located at Fifth Street and Lakeview Avenue. There are a total of 10 assessor's parcels comprising 76.9 acres which are owned wholly or in part by Lauda. Metropolitan is seeking to acquire the fee interest in a 1.6-acre parcel which is separated from the remainder of the properties by the Colorado River Aqueduct right-of-way. This parcel, INFED1-05-160 is being acquired in fee because the Inland Feeder pipeline will be located in this property as it connects with the pressure control facility being constructed nearby. The appraised value of this parcel is \$16,500, based on a land value of \$10,000 per acre.

Offers for the full appraised value have been made to the owner. A tentative settlement agreement was reached, but the acquisition cannot be completed through a purchase agreement due to disputes over the apportionment of the acquisition price. The commencement of condemnation proceedings will provide a forum for the resolution of the apportionment dispute, and will allow Metropolitan to obtain possession of the parcels without delaying the construction of the project.

On March 5, 1997, a notice of intention to adopt a resolution of necessity and for an opportunity to appear and be heard before the Special Committee on Real Property Management on March 25, 1997, as to the necessity for the Project and the taking of the properties, was served on Frank Lauda, Jr.. No request to appear and be heard was received. A written summary of the hearing and the recommendation of the Special Committee on Real Property Management as to whether the Board should adopt the resolution is included below.

Transmitted herewith is the form of a resolution declaring the necessity of the Project and the acquisition of the parcels described in Exhibits A and B, attached thereto, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the parcels.

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.

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 March 25, 1997, at the offices of The Metropolitan Water District of Southern California, a hearing was held by the Special Committee on Real Property Management of the Board of Directors. Committee Chairman Jerry King presided. The Committee was called to order and a quorum was present.

Deputy General Counsel Joseph Vanderhorst advised the Committee that it has been delegated the authority by Metropolitan's Board of Directors to hold the hearings required by law as a prerequisite to the adoption of resolutions of necessity to acquire property through the exercise of the eminent domain power. The purpose of the hearing is to allow the Committee to make a determination regarding whether the public interest and necessity require the proposed project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether the property to be acquired is necessary for the project. Mr. Vanderhorst further advised the Committee that the property owners had received the offer to purchase required by the Government Code. Although there was a tentative agreement for the purchase of the property, the pending escrows cannot be closed due to disputes between the owners. In order to avoid delays in the construction schedule, it is necessary to proceed with the condemnation process to allow Metropolitan to obtain possession through a court order if the property cannot be voluntarily acquired.

Mr. Vanderhorst stated that notice of the hearing had been sent to the owners of record of the property, and no request to appear and be heard was received.

Mr. Vanderhorst then requested that Project Manager, James Gallanes, make a presentation regarding the property to be acquired. Mr. Gallanes illustrated the alignment of the Inland Feeder Project and the location of the subject property. He explained that Parcel INFED1-05-160 will be used for the pipeline as it enters the pressure control facility located in Lakeview. Because the parcel is already narrow, and the pipeline will make the remainder undevelopable, staff has recommended acquiring the full fee interest in this parcel. Parcel INFED1-05-130TEA1 is a temporary construction easement to be used during installation of the pipeline on Metropolitan's adjacent right-of-way. This easement will be necessary for a five year period.

Mr. Gallanes and Mr. Vanderhorst responded to questions from the Committee regarding the property and the problem with bringing the voluntary acquisition to closure. Mr. Vanderhorst advised the Committee that the property ownership resides in a trust, and the consent of three trustees is required to complete a voluntary sale. Staff is working to obtain the consent but family disputes have prevented it at this time. There is not a dispute over the amount of compensation offered.

The Committee voted to recommend adoption of the resolution of necessity, with Director Parker voting "no."

## RESOLUTION

### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA DIRECTING THE CONDEMNATION OF CERTAIN PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE (INLAND FEEDER PROJECT)

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

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 Riverside for the transportation and distribution of water for use within the District's boundaries 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, above, consist of parcels of land described in Exhibits A attached hereto and incorporated herein by reference and shown on the Exhibits B attached hereto and incorporated herein by reference. The property is located within the District's boundaries.

Section 3. The District's Board hereby declares its intention to acquire the parcels 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).

Section 4. 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 5. The District's Board hereby finds and determines that the parcels described in Exhibits A and B attached hereto are necessary for the proposed Project.

Section 6. The District's Board hereby finds and determines that the offers required by Government Code section 7267.2 have been made to the owner of record of the parcels described in Exhibits A and B attached hereto.

Section 7. 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 parcels described in Exhibits A and B attached hereto, and to take such steps as may be necessary to secure orders of court permitting the District to take possession of the parcels 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 8th day of April, 1997, by vote of two-thirds of all its members, and I further certify that the foregoing is a full, true and correct copy of the resolution.

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Executive Secretary  
The Metropolitan Water District of  
Southern California

**EXHIBIT A**

**INFED1-05-160**  
**Frank Lauda, Jr., Trustee**

Fee interest in the property located in the County of Riverside, State of California, described herein as Parcel INFED1-05-160, and shown on Exhibit B, attached hereto, together with any rights appurtenant to such property reserved in that certain Grant Deed recorded September 8, 1933 in Book 133, page 366 of Official Records of County of Riverside, State of California.

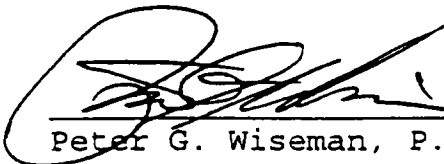
EXHIBIT A

INFED1-05-160  
Frank Lauda Jr.,  
Trustee

That portion of Lot 1 of Block 3 in the County of Riverside, State of California as shown on Map No. 3 of Lake View, recorded in Book 1, pages 34 and 35, of Maps in the Office of the County Recorder of said County lying northerly of the northerly line of that certain parcel of land conveyed by Grant Deed to The Metropolitan Water District of Southern California, recorded September 8, 1933 in Book 133, page 366 of Official Records, of said County.

For purposes of this description the northerly and easterly lines of said Lot 1 are coincident with the centerlines of Lakeview Avenue and Fifth Street respectively, as shown on said map.

PREPARED UNDER MY SUPERVISION

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

Date

8/8/96





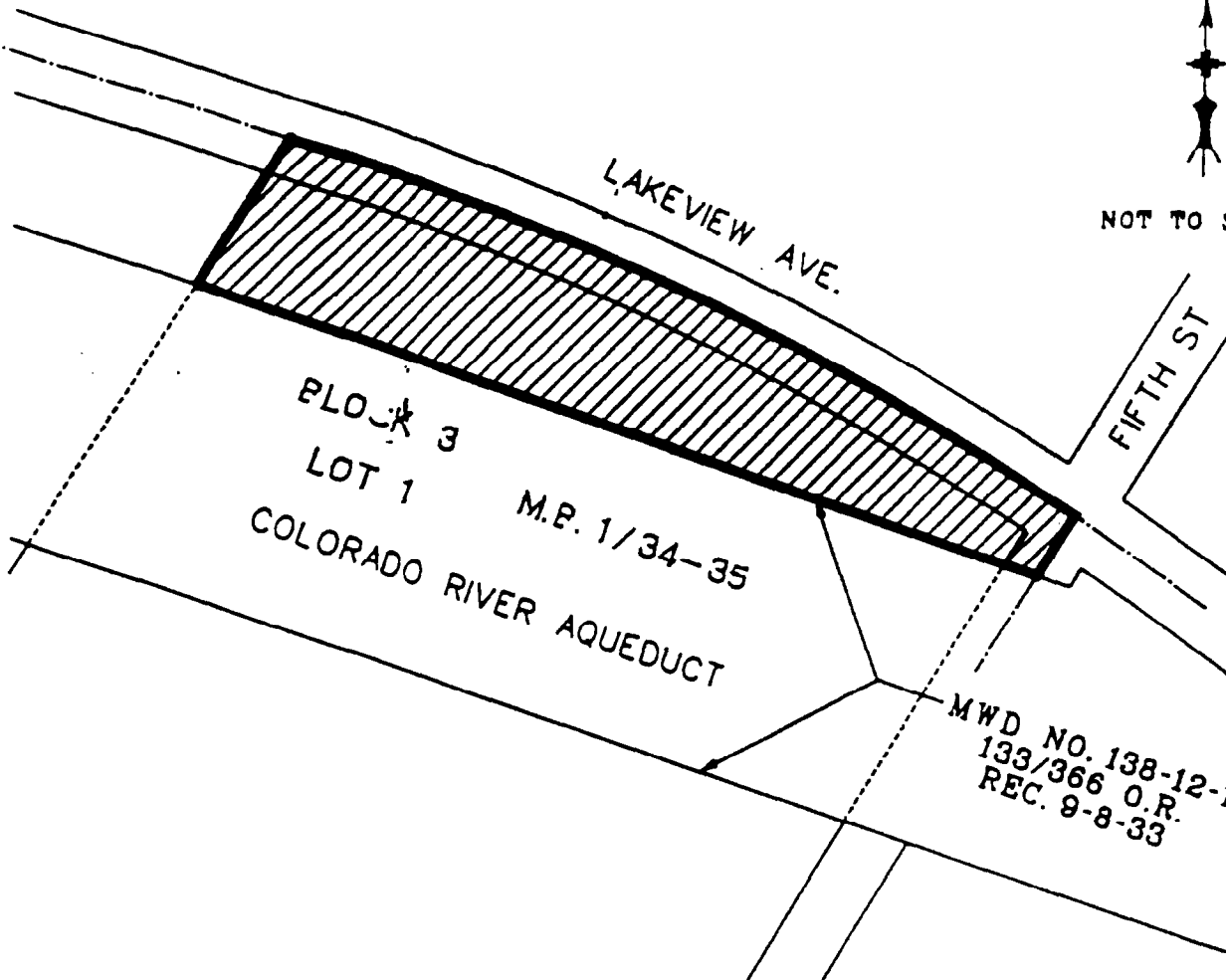
**EXHIBIT B**

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

POR. OF LOT 1, BLOCK 3, MAP NO. 3 OF LAKE VIEW, M.B. 1, PG. 34-35,  
RANCHO SAN JACINTO NUEVO  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



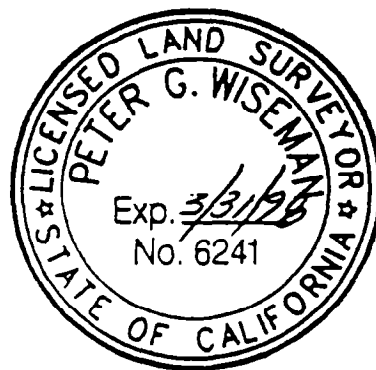
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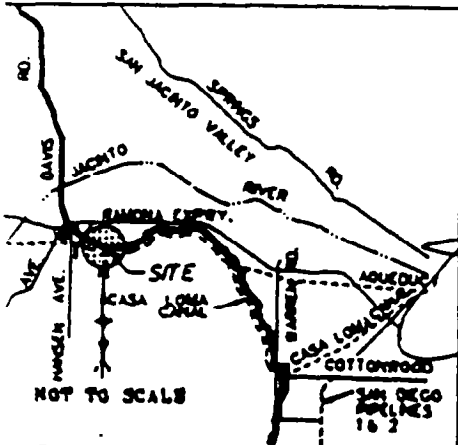
**LEGEND**



GRANT DEED  
INFED1-05-160  
(1.643 AC. TOTAL)



**VICINITY MAP**



PREPARED UNDER  
MY SUPERVISION

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

DATE 8/8/96

THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA  
INLAND FEEDER  
GRANT DEED  
FRANK LAUDA JR., TRUSTEE  
TO  
MWD  
INFED1-06-160

## **EXHIBIT A**

**INFED1-05-130TEA1**  
**Frank Lauda, Jr., Trustee**

A temporary construction easement for a term of five (5) years commencing on the effective date of an order for possession, over, upon and across the property located in the County of Riverside, State of California, described herein as Parcel INFED1-05-130TEA1, and shown on Exhibit B, attached hereto, for the purpose of constructing a water pipeline and related facilities on land other than such parcel. The property shall be returned to a condition as near as practicable to the condition that existed prior to Metropolitan's construction work with the exception that vegetation shall not be restored by Metropolitan.

EXHIBIT A

INFED1-05-130TEA1  
Frank W. Lauda Jr.,  
Trustee

A strip of land 150 feet wide lying within Lot 1, Block 22, Amended Map No. 1 of Lakeview, in the County of Riverside, State of California as shown on map filed in Book 2, page 24 of Maps, in the Office of the County Recorder of said County, the northerly line of said 150 foot wide strip being parallel with and 150 feet northerly of, as measured at right angles to, the north line of that certain parcel of land conveyed as Parcel "A" by Grant Deed to The Metropolitan Water District of Southern California, recorded March 30 1971, as Instrument No. 31809, of Official Records of said County.

The sidelines of said 150 foot wide strip shall be lengthened or shortened so as to terminate easterly on the easterly line of said Lot 1 and westerly on the centerline of Fourth Street as shown on said map.

PREPARED UNDER MY SUPERVISION

  
Peter G. Wiseman P.L.S. 6241

Date 11/29/95



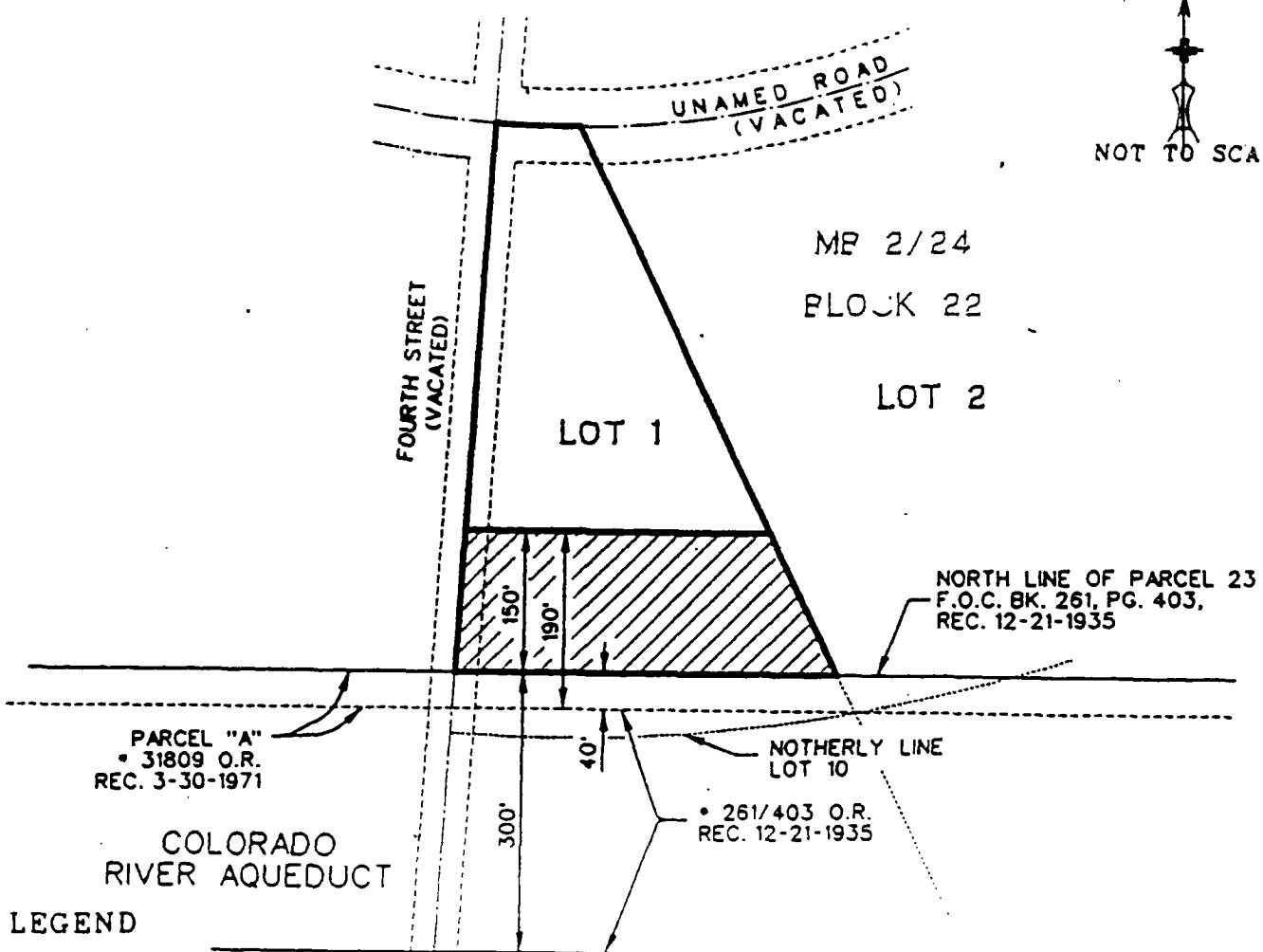
**EXHIBIT B**

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

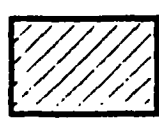
POR. OF LOT 1, UNAMED ST. AND E. 1/2 OF 4TH ST., BLOCK 22.  
 AMENDED MAP NO. 1, OF LAKEVIEW, M.B. 2, PG. 24,  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



NOT TO SCALE

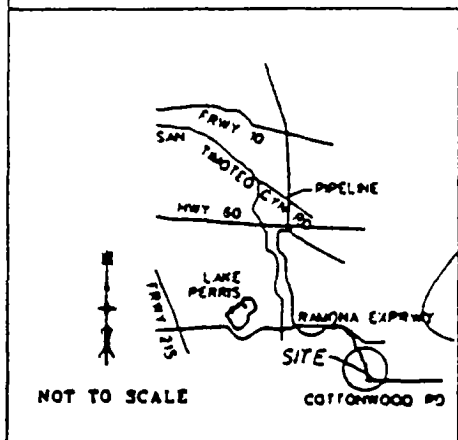


**LEGEND**


 TEMPORARY EASEMENT  
 INFED1-05-130TEA1  
 (1.252 AC. TOTAL)



**VICINITY MAP**



PREPARED UNDER  
 MY SUPERVISION

  
 Peter G. Wiseman P.L.S. 6241  
 11/29/95  
 DATE

THE METROPOLITAN WATER DISTRICT  
 OF SOUTHERN CALIFORNIA

INLAND FEEDER  
 TEMPORARY EASEMENT  
 FRANK W LAUDA, JR., TRUSTEE  
 TO  
 MWD

INFED1-05-130TEA1