



May 23, 1997

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

for **From:** General Manager

Submitted by: Gary M. Snyder
Chief Engineer

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 270-061-004, -008, -009; 270-071-008, MWD Right-of-Way Parcel Numbers INFED1-31-110PEA1, -110TEA1, and -110TEA2; and Owners' Name: Southern Pacific Transportation Company and Arrowhead & Puritas Water, Inc. [**Two-Thirds Vote Required**]

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 San Bernardino County to acquire the easements.

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 Project. Offers to purchase the property 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 an eminent domain action to acquire the property.

DETAILED REPORT

Metropolitan proposes to acquire the necessary easements for the construction of the Inland Feeder pipeline through Waterman Canyon in the San Bernardino mountains. Much of the pipeline easement is located within property owned by the Campus Crusade for Christ organization, and an eminent domain action has been commenced to acquire that portion of the easement. There is a strip of land within the Campus Crusade property that has a separate fee ownership. The strip was apparently created as a railroad right-of-way to service the Arrowhead Springs area many years ago. Metropolitan's title report indicates that the owner of the strip is the Southern Pacific Transportation Company. However, the County Assessor shows the owner as Arrowhead & Puritas Waters, Inc.

Metropolitan has made an offer to Southern Pacific's successor, Union Pacific Railroad, and Arrowhead & Puritas to purchase a permanent easement and construction easements across the strip of land. The permanent easement (INFED1-31-110PEA1) will encumber 0.8 acre of land. The temporary easements, INFED1-31-110TEA1, and -110TEA2 would cover 0.7 acre for a period of five (5) years. Metropolitan has had the easements appraised at a total value of \$8,071 based on land value of \$7,500 per acre. Neither Union Pacific nor Arrowhead & Puritas have been able to resolve the issue of ownership and no joint agreement has been worked out with both parties. In order to provide a forum to resolve the ownership issue, and to allow Metropolitan to obtain possession of the easements without delaying construction of the Project, it is necessary to proceed with acquisition of the required parcels through the exercise of Metropolitan's eminent domain power.

On May 5, 1997, notices 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 May 27, 1997, as to the necessity for the Project and the taking of the easements, were served on Union Pacific and Arrowhead & Puritas Waters, Inc. 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 resolution declaring the necessity of the Project and the acquisition of the easements described in Exhibits A and B, attached thereto, and directing to General Counsel to commence condemnation proceedings in San Bernardino County to acquire the easements.

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.

ks3996

SUMMARY OF HEARING AND RECOMMENDATION
OF THE SPECIAL COMMITTEE ON REAL PROPERTY
MANAGEMENT REGARDING ADOPTION OF A RESOLUTION
OF NECESSITY TO CONDEMN CERTAIN PROPERTY
FOR THE INLAND FEEDER PROJECT

On May 27, 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 proposed Project is necessary, 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 been provided notice of the hearing and had not requested an appearance.

Mr. Vanderhorst identified the subject property as a railroad right-of-way located in Waterman Canyon next to the Campus Crusade for Christ facilities. The status of ownership of the property is not clear as Metropolitan's title company indicates that both Southern Pacific Railroad Company and Arrowhead & Puritas Water, Inc. have some claim to ownership. Metropolitan has made offers to both Union Pacific Railroad, the successor to Southern Pacific, and to Arrowhead & Puritas, subject to their ability to convey clear title to the easements sought. In order to avoid delays in construction, Metropolitan is proceeding with the condemnation process to obtain an order for possession, if necessary. The interests sought to be acquired are a permanent easement for the pipeline, and adjacent construction easements. During discussions with the two potential owners, no objections to the project were made. Metropolitan's staff will continue working with both entities in an effort to clear the title issue and conclude a voluntary acquisition of the required easements.

The Committee approved the recommendation to adopt the resolution of necessity, with Director Parker voting against approval.

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 SAN BERNARDINO (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 San Bernardino for the transportation and distribution of water for use within the District's boundaries and that certain property situated in the County of San Bernardino is necessary therefor.

Section 2. The easements to be acquired for the public use set forth in section 1, above, consist of the parcels of land described in Exhibits A attached hereto and incorporated herein by reference and shown on Exhibits B attached hereto and incorporated herein by reference. The property is not located within the District's boundaries.

Section 3. The District's Board hereby declares its intention to acquire the easements 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 easements 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 has been made to the owner of record of the property 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 San Bernardino for the purpose of condemning and acquiring the easements 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 easements 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 easements 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 10th day of June, 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.

Executive Secretary
The Metropolitan Water District of
Southern California

EXHIBIT A

INFED1-31-110PEA1
Southern Pacific Transportation Company
Arrowhead Puritas & Water Company

A permanent easement in the property described as Parcel INFED1-31-110PEA1 for the purpose of constructing, reconstructing, maintaining, operating, enlarging, removing, and replacing a line or lines of pipe at any time, and from time to time, for water transportation, with every appendage or structure necessary or convenient to be installed at any time in connection therewith; subject to the following conditions.

1. Owner shall not change the existing grade or otherwise modify the topography of the property affected by this easement without the prior consent of Metropolitan.
2. No building or other structure excepting pavement for road use shall be constructed or maintained upon any portion of the easement by Owner.
3. Owner shall not plant trees within fifteen (15) feet of the centerline of Metropolitan's pipeline. Trees shall be permitted to be planted and maintained on the remaining portion of the easement, provided, however, that should Metropolitan require use of the remaining portion of the easement area for replacement, relocation or installation of its pipeline, or for future pipelines, Owner shall remove any such trees at his or her own expense and shall not permit trees to be replanted within fifteen (15) feet of the centerline of Metropolitan's pipeline or pipelines.
4. Owner shall retain the right of access over and across the easement area, and Metropolitan shall not unreasonably interfere with such right of access.

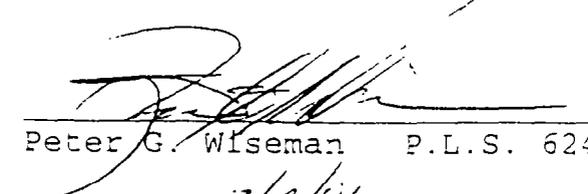
EXHIBIT A

INFED1-31-110PEA1
Southern Pacific
Transportation Company,
a Delaware Corporation

All that portion of the following described parcel in Section 11, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within those certain parcels of land conveyed to San Bernardino Valley Traction Company by deed, recorded June 26, 1907, in Book 396, page 327 of Deeds, and recorded July 12, 1907, in Book 395, page 289 of Deeds in the Office of the County Recorder of said County, and as conveyed to the Pacific Electric Railway Company by deed, recorded May 8, 1936, in Book 1139, page 58, and in Book 1131, page 127, both of Official Records of said County, said parcel being described as follows:

Commencing at the southeast corner of said Section 11, said point being a 2" iron pipe with nail 15" above surface, as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive, of Record of Surveys, in the office of the County Recorder of said County; thence along the south line of said Section S 89° 26' 17" W 1391.56 feet to the TRUE POINT OF BEGINNING; thence N 00° 18' 30" W 402.29 feet; thence N 10° 47' 46" E 489.11 feet; thence N 27° 20' 02" W 375.94 feet; thence N 52° 34' 40" W 688.93 feet; thence N 61° 34' 03" W 1064.18 feet; thence N 23° 44' 35" W 522.68 feet; thence N 87° 25' 36" W 271.87 feet; thence S 00° 18' 04" W 333.48 feet; thence S 63° 21' 42" W 450.05 feet; thence S 26° 09' 09" E 80.00 feet; thence N 63° 21' 42" E 496.02 feet; thence S 58° 08' 44" E 978.96 feet; thence S 65° 29' 01" E 491.22 feet; thence S 52° 34' 40" E 646.78 feet; thence S 27° 20' 03" E 304.74 feet; thence S 10° 47' 46" W 587.08 feet; thence S 00° 16' 40" E 288.54 feet to a point on the south line of said Section 11; thence along said south line N 89° 26' 17" E 150.10 feet to the TRUE POINT OF BEGINNING.

PREPARED UNDER MY SUPERVISION


Peter G. Wiseman P.L.S. 6241

Date 3/8/96



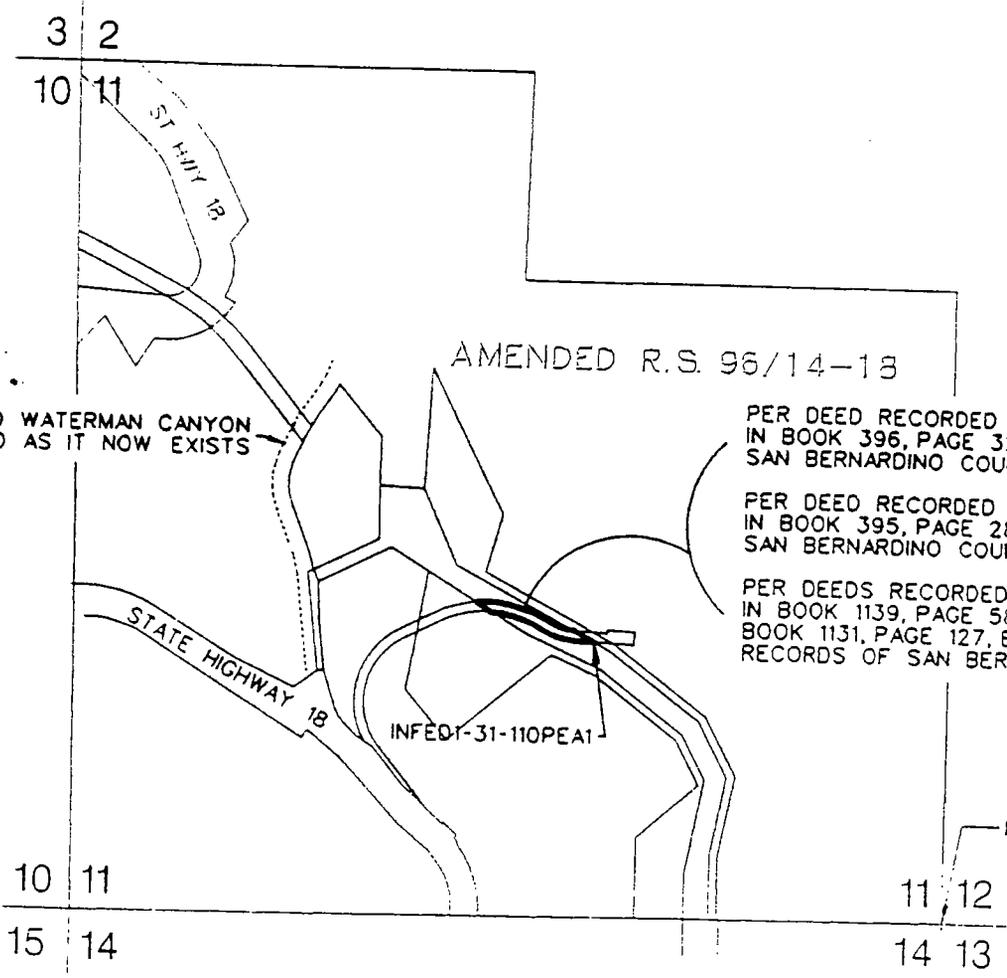
EXHIBIT B

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

POR. SEC. 11, T. 1 N., R. 4 W., S.B.M.,
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



NOT TO SCALE



PER DEED RECORDED JUNE 26, 1907
IN BOOK 396, PAGE 327 OF DEEDS
SAN BERNARDINO COUNTY

PER DEED RECORDED JULY 12, 1907
IN BOOK 395, PAGE 289 OF DEEDS
SAN BERNARDINO COUNTY

PER DEEDS RECORDED MAY 8, 1936
IN BOOK 1139, PAGE 58 AND IN
BOOK 1131, PAGE 127, BOTH OF OFFICIAL
RECORDS OF SAN BERNARDINO COUNTY

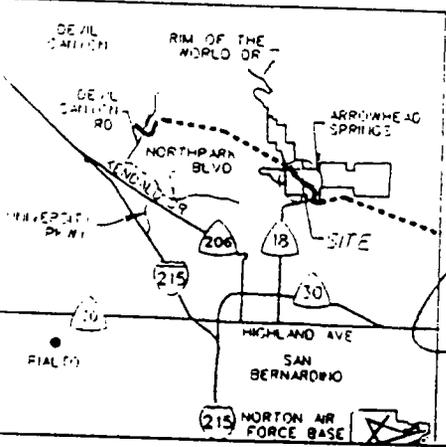
LEGEND



PERMANENT EASEMENT
INFEDI-31-110PEA1
(0.872 AC. TOTAL)



VICINITY MAP



PREPARED UNDER
MY SUPERVISION

[Signature]
Peter G. Wiseman P.L.S. 6241

DATE 3/8/96

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

INLAND FEEDER
PERMANENT EASEMENT
SOUTHERN PACIFIC TRANSPORTATION COMPANY,
a Delaware Corporation
TO
MWD
INFEDI-31-110PEA1

EXHIBIT A

INFED1-31-110TEA1 and -110TEA2 Southern Pacific Transportation Company Arrowhead Puritas & Water Company

Temporary construction easements for a term of five (5) years commencing on the effective date of an order for possession in the property described herein as Parcels INFED1-31-110TEA1 and INFED1-31-110TEA2, and shown on Exhibit "B," attached hereto, for the purpose of constructing a water pipeline and related facilities on land other than such parcel, and reserving to the owners the right of reasonable access over and across the easement area. The area 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.

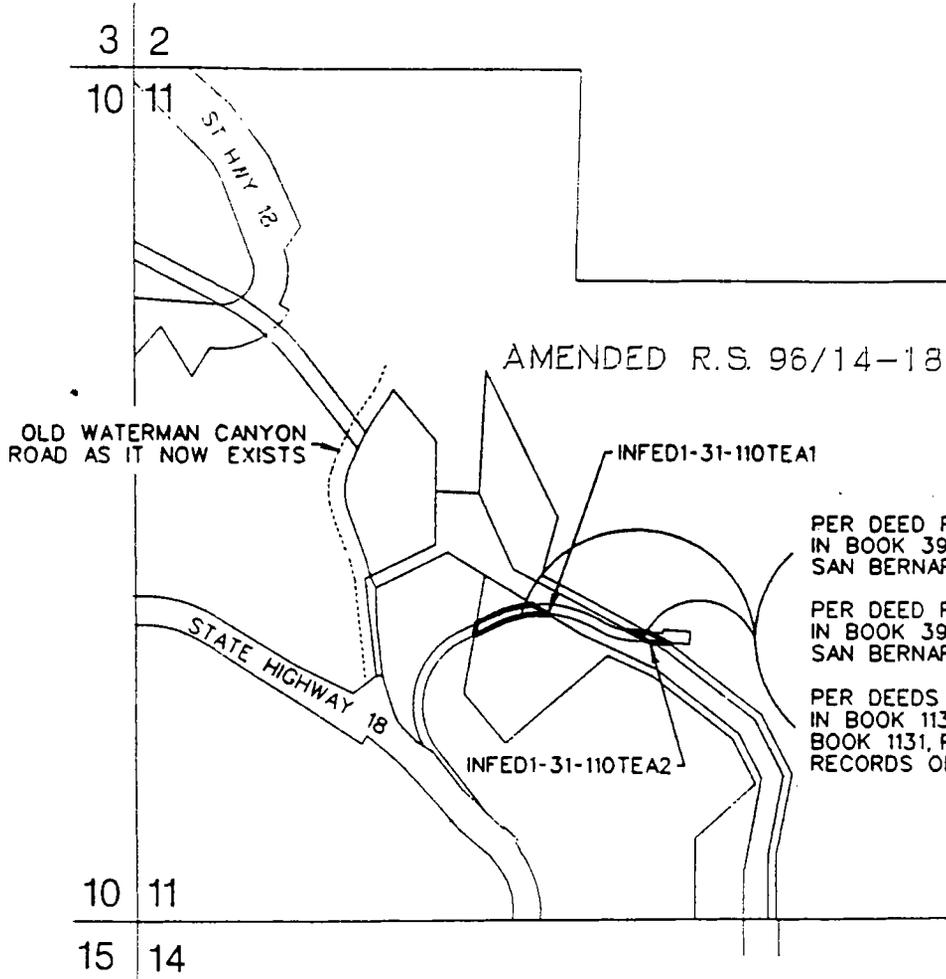
EXHIBIT B

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

POR. SEC. 11, T. 1 N., R. 4 W., S.B.M.,
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



NOT TO SCALE



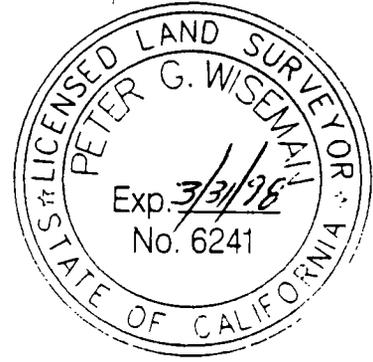
PER DEED RECORDED JUNE 26, 1907
 IN BOOK 396, PAGE 327 OF DEEDS
 SAN BERNARDINO COUNTY

PER DEED RECORDED JULY 12, 1907
 IN BOOK 395, PAGE 289 OF DEEDS
 SAN BERNARDINO COUNTY

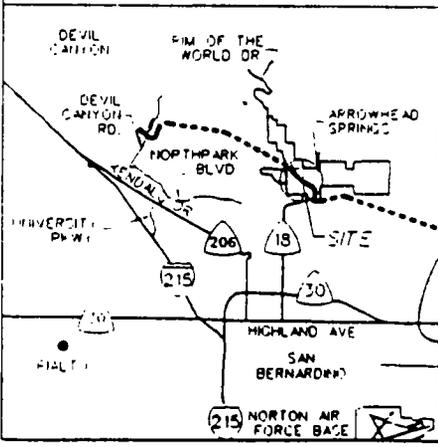
PER DEEDS RECORDED MAY 8, 1936
 IN BOOK 1139, PAGE 58 AND IN
 BOOK 1131, PAGE 127, BOTH OF OFFICIAL
 RECORDS OF SAN BERNARDINO COUNTY

LEGEND

 TEMPORARY EASEMENT
 INFED1-31-110TEA1 AREA 0.534 AC.
 INFED1-31-110TEA2 AREA 0.160 AC.
 (0.694 AC. TOTAL)



VICINITY MAP



PREPARED UNDER
 MY SUPERVISION


 Peter G. Wiseman P.L.S. 6241
 DATE 3/8/96

THE METROPOLITAN WATER DISTRICT
 OF SOUTHERN CALIFORNIA

INLAND FEEDER
 TEMPORARY EASEMENT
 SOUTHERN PACIFIC TRANSPORTATION COMPANY,
 a Delaware Corporation
 TO
 MWD
 INFED1-31-110TEA1, 110TEA2

EXHIBIT A

INFED1-31-110TEA1
Southern Pacific
Transportation Company,
a Delaware Corporation

All that portion of the following described parcel in Section 11, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within those certain parcels of land conveyed to San Bernardino Valley Traction Company by deed, recorded June 26, 1907, in Book 396, page 327 of Deeds, and recorded July 12, 1907, in Book 395, page 289 of Deeds in the Office of the County Recorder of said County, and as conveyed to the Pacific Electric Railway Company by deed, recorded May 8, 1936, in Book 1139, page 58, and Book 1131, page 127, both of Official Records of said County, said parcel being described as follows:

Commencing at the southeast corner of said Section 11, said point being a 2" iron pipe with nail 15" above surface, as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive, of Record of Surveys, in the office of the County Recorder of said County; thence along the south line of said Section 11 S 89° 26' 17" W 1541.65 feet to the TRUE POINT OF BEGINNING; thence continuing along said south line S 89° 26' 17" W 300.03 feet; thence N 00° 11' 12" W 500.05 feet; thence N 48° 05' 47" E 499.50 feet; thence N 27° 20' 03" W 306.51 feet; thence N 52° 34' 39" W 629.94 feet; thence N 65° 29' 01" W 298.41 feet; thence S 48° 50' 58" W 817.75 feet; thence N 40° 10' 59" W 400.05 feet; thence N 09° 53' 47" E 737.90 feet; thence S 58° 08' 44" E 703.47 feet; thence S 65° 29' 01" E 491.22 feet; thence S 52° 34' 40" E 646.78 feet; thence S 27° 20' 03" E 304.74 feet; thence S 10° 47' 46" W 587.08 feet; thence S 00° 16' 40" E 288.54 feet to the TRUE POINT OF BEGINNING.

INFED1-31-110TEA2
Southern Pacific
Transportation Company,
a Delaware Corporation

All that portion of the following described parcel in Section 11, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within those certain parcels of land conveyed to San Bernardino Valley Traction Company by deed, recorded June 26, 1907, in Book 396, page 327 of Deeds, and recorded July 12, 1907, in Book 395, page 289 of Deeds in the Office of the County Recorder of said County, and as conveyed to the Pacific Electric Railway Company by deed, recorded May 8, 1936, in Book

EXHIBIT A

INFED1-31-110TEA2
Southern Pacific
Transportation Company

1139, page 58, and Book 1131, page 127, both of Official
Records of said County, said parcel being described as follows:

Commencing at the southeast corner of said Section
11, said point being a 2" iron pipe with nail 15" above
surface, as shown on Amended Record of Survey filed in Book 96,
pages 14 through 18, inclusive, of Record of Surveys, in the
office of the County Recorder of said County; thence along the
south line of said Section 11, S 89° 26' 17" W 1391.56 feet to
the TRUE POINT OF BEGINNING; thence N 00° 18' 30" W 402.29
feet; thence N 10° 47' 46" E 489.11 feet; thence N 27° 20'
02" W 375.94 feet; thence N 52° 34' 40" W 688.93 feet; thence
N 61° 34' 03" W 1064.18 feet; thence N 23° 44' 35" W 522.68
feet; thence N 02° 57' 08" E 751.37 feet; thence S 26° 08'
33" E 1002.31 feet; thence S 14° 50' 10" W 378.44 feet; thence
S 61° 34' 03" E 898.49 feet; thence S 52° 34' 40" E 703.98
feet; thence S 27° 20' 02" E 404.38 feet; thence S 10° 47'
46" W 502.63 feet; thence S 00° 20' 20" E 396.21 feet to the
south line of said Section 11; thence along said south line
S 89° 26' 17" W 49.93 feet to the TRUE POINT OF BEGINNING.

PREPARED UNDER MY SUPERVISION


Peter G. Wiseman P.L.S. 6241

3/8/96
Date

