



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-7

November 19, 1997

**To:** Board of Directors (Legal and Claims Committee--Action)  
**From:** General Counsel   
**Subject:** Authorize Settlement of Eminent Domain Action Entitled Metropolitan Water District v. Colville, Riverside County Superior Court Case No. 286919

### **RECOMMENDATION(S)**

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It is recommended that the Board authorize the settlement negotiated at the mandatory settlement conference in the eminent domain action entitled Metropolitan Water District v. Colville in the sum of \$22,000, inclusive of interest and costs.

### **EXECUTIVE SUMMARY**

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The eminent domain action entitled Metropolitan Water District v. Colville was filed to acquire a construction easement for the Inland Feeder Project. A mandatory settlement conference was held on November 17, at which a settlement in the sum of \$22,000 was reached. The settlement provides for payment of \$8,500 above the deposit amount already withdrawn by the property owner. The settlement was negotiated with and is deemed reasonable by Metropolitan's special counsel, and is less than the cost of proceeding with the trial scheduled for December 15.

### **DETAILED REPORT**

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The eminent domain action entitled Metropolitan Water District v. Colville, Riverside County Superior Court Case No. 286919, was commenced to acquire a construction easement for the Inland Feeder Project. The subject property consists of about twenty acres of vacant land located in the City of Moreno Valley. The property is located at the corner of Alessandro Boulevard and Theodore Street.

The Inland Feeder Project includes construction of a pipeline within Theodore Street adjacent to the subject property. It is necessary to acquire an easement, designated Metropolitan Parcel No. INFED1-09-180TEA1, across the easterly 150 feet of the property for the construction work. The easement covers about 2 acres, and will be in place for five years.

Metropolitan's original appraisal and offer to purchase the easement was in the sum of \$13,500. When no agreement on a purchase could be reached, the eminent domain action was

commenced. Metropolitan deposited the \$13,500 and took possession of the easement. The property owner has withdrawn the amount deposited.

The parties exchanged valuation data on November 10. Metropolitan had the property re-appraised by Frances Wolfe-Mason, MAI. Her opinion of the value of the easement is \$6,700, with no severance damage to the remainder. This opinion is based on a highest and best use of the property as speculative investment, with long-term holding for residential development. In her opinion, the property is worth \$8,000 per acre for a total of \$167,500. She values the easement based on a reasonable rate of return on the property value for the five year period.

The property owner had the easement appraised by Michael Waldron, MAI. Mr. Waldron also concluded that the highest and best use of the property is for speculative investment. However, he valued the whole property at \$270,000 (about \$13,500 per acre). His value of the easement is \$15,000, however, he also values severance damages to the remainder in the sum of \$42,000. The severance damages are based on the interference with the marketability of the property for the duration of the easement. The total compensation calculated by Mr. Waldron is \$57,000.

A mandatory settlement conference was held before Judge Rich in Riverside Superior Court on November 17. At the conference, a settlement was negotiated in the amount of \$22,000, including all interest for pre-judgment possession of the property and owner's costs. With the deposit of probable compensation already withdrawn by the owner, Metropolitan will pay an additional \$8,500 under the settlement. The settlement is less than a split between the two appraisals which would be presented at trial, which would be \$31,850. Furthermore, the settlement will result in substantial savings in trial costs, which would likely exceed the amount of the settlement. The trial scheduled for December 15.

The amount of the settlement was agreed upon in consultation with Metropolitan's special counsel, Linda Bartz, and was strongly recommended by Judge Rich. The issue of settlement authority could not be presented to your Board at, or prior to, its November 18 meeting because the exchange of valuation data did not occur until November 10, and the settlement conference was held on November 17. The terms of the settlement are reasonable, and it is recommended that the settlement be approved.

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