



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-11

June 20, 1998

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

**From:** *for* General Manager *Edward J. Meert III*

**Submitted by:** Chief Engineer *Gary J. Snyder*

**Subject:** Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in County of San Bernardino, California, identified by Assessor's Parcel Numbers 270-061-11 and 285-041-01, MWD's Right-of-Way Parcel Numbers INFED1-31-100PEA3 and INFED1-31-100PEA4 and Owners' Name: Campus Crusade for Christ

### **RECOMMENDATION**

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It is recommended that the Board of Directors adopt, by a two-thirds vote, the attached resolution of necessity to condemn property described in Exhibits A and B, attached hereto, in accordance with the eminent domain law, and directing the General Counsel to commence condemnation proceedings in San Bernardino County to acquire the easements.

### **EXECUTIVE SUMMARY**

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Metropolitan will require an additional permanent pipeline easement and a permanent tunnel easement across the real property owned by Campus Crusade for Christ described in Exhibits A and B, attached hereto, located in San Bernardino County, California, for portions of the Inland Feeder Project. An offer to purchase the permanent easements as required by California Government Code section 7267.2 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**

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Metropolitan seeks two additional permanent easements across portions of property owned by Campus Crusade for Christ (Campus Crusade). Campus Crusade owns 1,551.54 acres adjacent to State Highway 18 along Old Waterman Canyon Road in the Arrowhead Springs area. Metropolitan currently is condemning portions of the property owned by Campus Crusade. Because of the necessity to change the pipeline alignment two additional permanent easements will be required. INFED1-31-100PEA3 is a 2.34 acre site and is a permanent pipeline easement. INFED1-31-PEA4 is a deep tunnel easement with depths of 670 to 785 feet below the surface. These easements are required for the construction and operation of the Inland Feeder Project.

The pipeline easement (INFED1-31-100PEA3) has been appraised at \$17,550 and the tunnel easement (INFED1-31-100PEA4) has been appraised at \$4,531. An offer to purchase the easements has been made to Campus Crusade, but no agreement has been reached for either parcel.

On April 2, 1998, 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 April 28, 1998, as to the necessity for the Project and the taking of the easements, were served on the property owner. Thereafter, the hearing was continued to June 2, 1998, and on May 4, 1998, a notice of the continuance of the hearing was served on the property owner. Campus Crusade's counsel, Justin McCarthy, responded and addressed the Special Committee on Real Property Management as set forth in the attached Summary of Hearing and Recommendation of Special Committee on Real Property Management. The Special Committee voted unanimously to recommend approval of the proposed resolution of necessity.

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 the 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.

KS:10681

Attachment(s)

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

On June 2, 1998, at the offices of The Metropolitan Water District of Southern California, located at 350 South Grand Avenue, Los Angeles, California 90071, Room 311, a hearing was held by the Special Committee on Real Property Management of the Board of Directors, Committee Chairman Jerry King presiding. The Committee was called to order and a quorum was present.

Senior Deputy General Counsel Lauren R. Brainard made a presentation to the Committee regarding the Inland Feeder Project and the need for the subject property, two easements, one tunnel and the other pipeline. Reference was made to a Board Letter of May 11, 1998, setting forth the details of the project and the needed subject property. Mr. Brainard explained that the Committee's function was twofold, to hold a public hearing on the subject resolution of necessity and to make a recommendation to the Board regarding the adoption of the subject resolution of necessity.

Mr. Brainard advised the Committee that the parcels, which are the subject of the hearing, are additions to the take required from the owner, Campus Crusade for Christ. Mr. Brainard explained that the reason for the additional take is a realignment of the Arrowhead East and Arrowhead West Tunnels, from a more southerly route to a more northerly route, at the request of the United States Forest Service and Bureau of Indian Affairs. This realignment, in fact, is the alignment provided for in the original environmental impact report for the project. Mr. Brainard explained that the parcels here under consideration are located in San Bernardino County in the Waterman Canyon area and consist of a deep tunnel easement, some 600 to 700 feet underground, to be included in the Arrowhead East Tunnel, and a pipeline easement adjacent to the east portal of the Arrowhead West Tunnel.

Mr. Brainard continued in response to a question, that it was anticipated that during the course of the already existing litigation, the Complaint would be amended to include this additional property, but that the precise procedures to be followed would be up to Mr. Bley, Metropolitan's outside counsel. He stated that it was expected that during the course of the litigation the parties would work out any needed adjustments for possible excess property taken, but that as for now, the District was merely requesting additional take to meet its realignment needs.

Director Wright asked about the amount of the offers made to purchase the property, as contained in the Board Letter, and Mr. Brainard explained that the amounts offered, \$17,550 for the pipeline easement, and \$4,531 for the tunnel easement, were the amounts provided by the appraiser, and that was what was offered. Director Barbosa asked if this the property with regard to which Engineering requested pre-purchasing some pipe to get the construction going so we could assess the consequential damages or the impact damages. Mr. Brainard affirmed that this was the case. Director Brick then asked why the Forest Service and Bureau of Indian Affairs had requested going back to the original environmental impact

report alignment. Mr. Brainard stated that the San Manuel Indian Reservation had expressed concern concerning groundwater impacts to its well water system and had demanded the change.

Justin McCarthy, of Redwine & Sherrill, an attorney for the property owner, Campus Crusade for Christ, stated his objections to the resolution on procedural grounds. He stated that if he had known the District's intent was to amend the existing complaint, he would not have appeared, but stated his concern that the appropriate way to proceed was to amend the existing resolution of necessity. He conceded that the District had the unquestioned power to exercise the privilege of eminent domain and take these parcels. Mr. McCarthy further stated that he had offered to stipulate to the additional take for attorney's fees of \$17,000, but that the District had refused that offer.

Director Barbosa, stating that nothing the property owner had presented goes to the issues appropriately before the Committee, moved for the adoption of the proposed resolution of necessity, and Director Miller seconded it. The Committee voted unanimously to recommend approval of the proposed resolution of necessity.

## 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 properties situated in the County of San Bernardino are necessary therefor.

Section 2. The permanent 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 properties are not located within the District's boundaries.

Section 3. The District's Board hereby declares its intention to acquire the permanent 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 permanent 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 offer required by Government Code section 7267.2 have been made to the owner of record of the properties 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 permanent 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 permanent 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 permanent 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 meeting of the Board of Directors of The Metropolitan Water District of Southern California held the 14th day of July, 1998, 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

1. Permanent easement in the property described as Parcel INFED1-31-100PEA3, 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.
  - A. 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.
  - B. No building or other structure excepting pavement for road use shall be constructed or maintained upon any portion of the easement by Owner.
  - C. 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.
  - D. Owner shall retain the right of access over and across the easement area, and Metropolitan shall not unreasonably interfere with such right of access.
2. Permanent easement in the property described as Parcel INFED1-31-100PEA4, for the purpose of constructing, reconstructing, maintaining, and operating a tunnel for water transportation.

**EXHIBIT B**

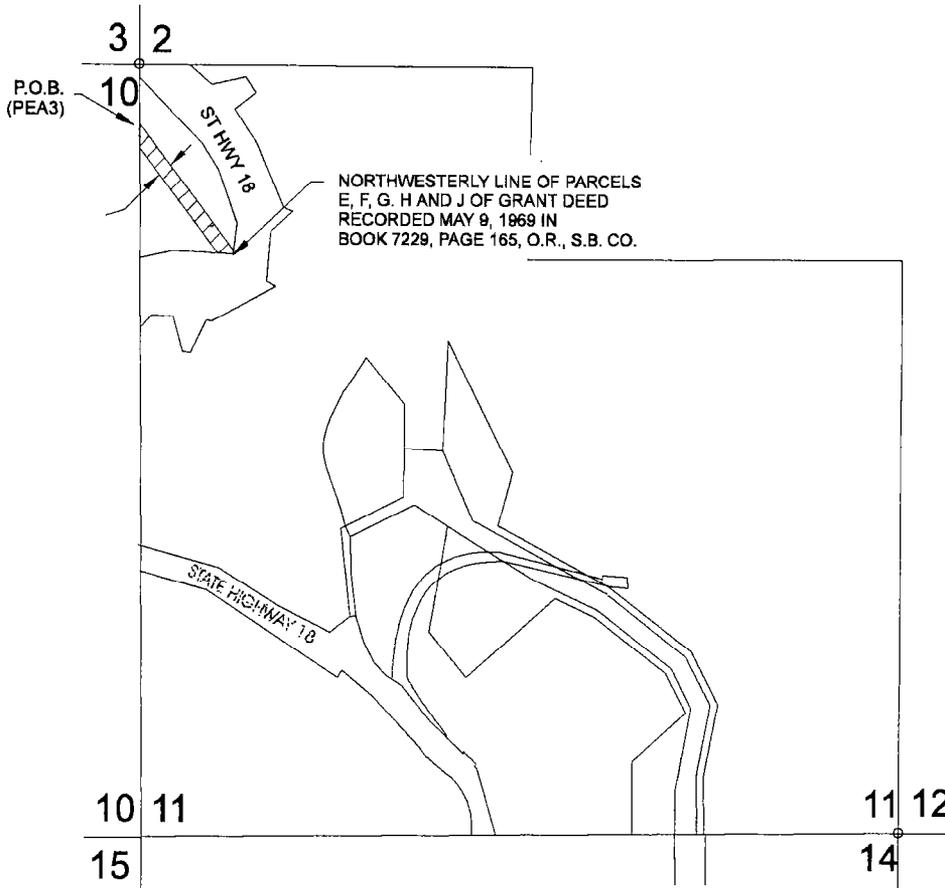
"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"  
 FOR: SEC 11, T 1 N., R. 4 W., S. 8 E.M.,  
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

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NOT TO SCALE

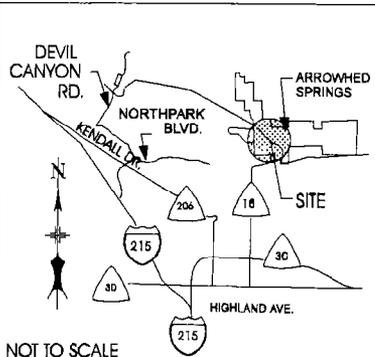


**LEGEND**



PERMANENT EASEMENT  
 INFED1-31-100PEA3 AREA 2.340 AC.

**VICINITY MAP**



NOT TO SCALE

PREPARED UNDER  
 MY SUPERVISION

PL.S. 6241

DATE



THE METROPOLITAN WATER DISTRICT  
 OF SOUTHERN CALIFORNIA

**INLAND FEEDER  
 PERMANENT EASEMENT**

CAMPUS CRUSAGE FOR CHRIST,  
 A Non Profit California Corporation  
 FO  
 (MWD)  
 INFED1-31-100PEA3

EXHIBIT A

INFED1-31-100PEA3  
(Permanent Easement)  
Campus Crusade for Christ  
a non profit  
California Corporation

All that portion of Section 11, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Commencing at the northwest corner of said Section 11, said point being a 2" iron pipe with 2" brass disk flush with surface, stamped "San Bernardino County Surveyor" 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 west line of said Section 11 S 00° 03' 40" W 395.77 feet to the beginning of a non tangent curve, concave southwesterly, having a radius of 1250.00 feet to which a radial line bears N 48° 57' 55" E and also being the POINT OF BEGINNING; thence southeasterly along the arc of said curve 74.76 feet; thence tangent to said curve S 37° 36' 28" E 2251.61 feet; thence S 27° 45' 15" W 41.54 feet; thence S 24° 54' 53" W 70.16 feet; thence N 37° 36' 28" W 2249.39 feet to said west line of Section 11; thence along said west line N 00° 03' 40" E 159.98 feet to the POINT OF BEGINNING.

EXCEPTING therefrom that portion lying southeasterly of the northwesterly line of those certain parcels of land conveyed to the State of California as Parcels "E", "F", "G", "H", and "J" by Grant Deed recorded May 09, 1969 in Book 7229, page 165, of Official Records of said County.

PREPARED UNDER MY SUPERVISION

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Peter G. Wiseman P.L.S. 6241

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Date



**EXHIBIT B**

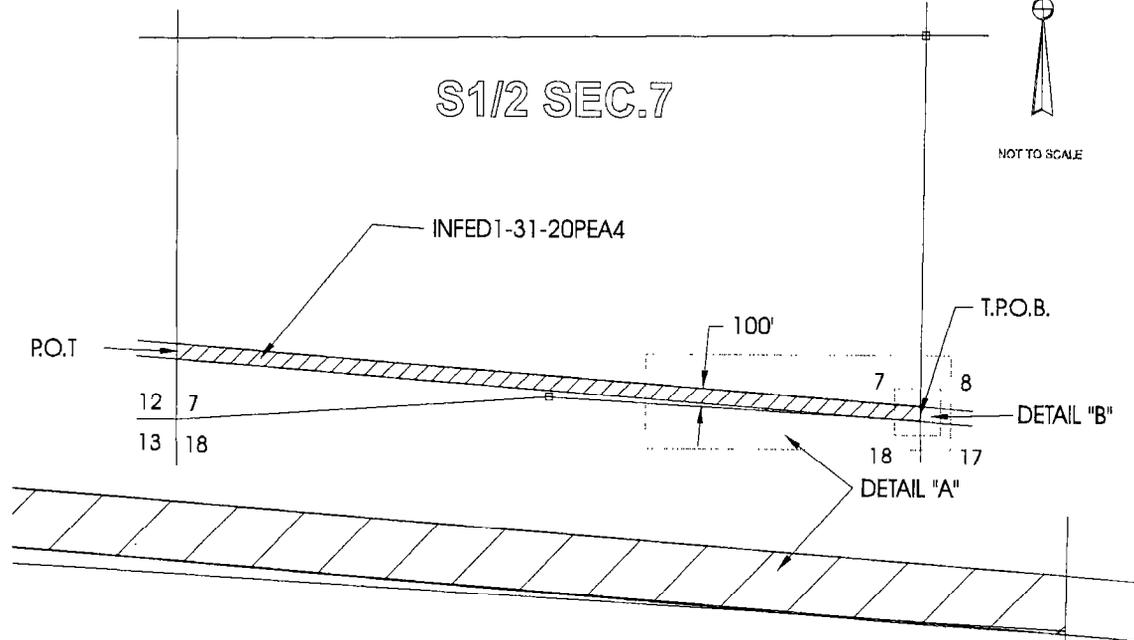
"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"

FOR SEC. 7, T. 1 N., R. 3 W., S.B.M.,  
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

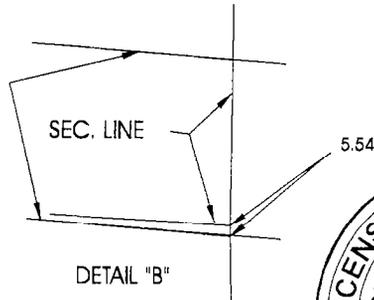
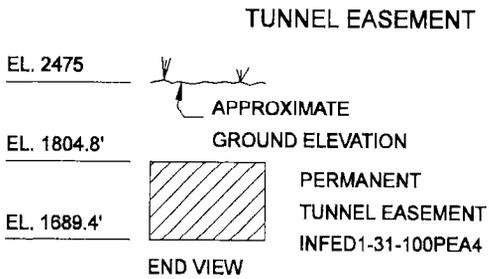
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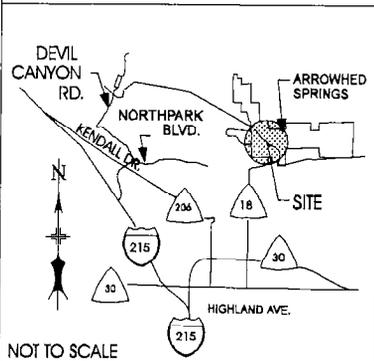
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**LEGEND**



**VICINITY MAP**



PREPARED UNDER  
 MY SUPERVISION

PLS. 6241

DATE

THE METROPOLITAN WATER DISTRICT  
 OF SOUTHERN CALIFORNIA

**INLAND FEEDER  
 PERMANENT TUNNEL EASEMENT**

(ARROWHEAD EAST TUNNEL)

CAMPUS CRUSADE FOR CHRIST,  
 A Non Profit California Corporation

TO

MWD

INFED1-31-100PEA4

EXHIBIT A

INFED1-31-100PEA4  
Tunnel Easement  
Campus Crusade for Christ  
a non profit  
California Corporation

That portion of the south half of Section 7, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying between the elevations of 1689.4 feet and 1804.8 feet, inclusive, based on the North American Vertical Datum of 1988 as published in May 1994 by the National Geodetic Survey, and lying 50.00 feet on each side of, as measured at right angles to, the following described line:

Commencing at the southeast corner of said Section 7, said point being witnessed by a 1 3/4" I.P. with 2 1/2" brass disk 14" above surface, stamped "General Land Office Survey" as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive, of Records of Survey in the office of the County Recorder of said County; thence along the east line of said Section 7 N 00° 34' 09" E 44.46 feet to the TRUE POINT OF BEGINNING OF SAID DESCRIBED LINE; thence N 85° 43' 27" W 5263.46 feet to a point on the west line of said Section 7 that N 00° 15' 11" W 462.75 feet from the southwest corner of said Section 7, said southwest corner being a 2" I.P. w/brass disk stamped "MWD" as shown on said Amended Record of Survey.

The sidelines of said 100 foot wide strip are to be lengthened or shortened so as to terminate westerly on said west line and easterly on the east and south lines of said Section 7, respectively.

PREPARED UNDER MY SUPERVISION

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Peter G. Wiseman P.L.S. 6241

\_\_\_\_\_  
Date

