



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-12

June 23, 1998

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

From: *for* General Manager _____
[Signature]

Submitted by: *for* Chief Engineer _____
[Signature]

Subject: Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in County of Riverside, California, identified by Assessor's Parcel Numbers 413-020-056 and -057, MWD's Right-of-Way Parcel Numbers INFED1-14-100TEA1 and INFED1-14-100PEA1 and Owners' Names: Vaughan H. Shoemaker and Mary Ann Baker

RECOMMENDATION

It is recommended that the Board of Directors adopt, by a two-thirds vote, the attached resolution of necessity to condemn of the 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 Riverside County to acquire the easements.

EXECUTIVE SUMMARY

Metropolitan will require a permanent tunnel easement and a temporary construction easement across the real property owned by Vaughan H. Shoemaker and Mary Ann Baker described in Exhibits A and B, attached hereto, located in Riverside County, California, for portions of the Inland Feeder Project. An offer to purchase the 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

Metropolitan seeks a permanent tunnel easement across a portion of property owned by Vaughan H. Shoemaker and Mary Ann Baker (property owners) and a temporary construction easement for a period of five years. The property owners own 140 acres south of Yucaipa Creek, two miles west of I-10 in Riverside County improved with a residence and barns/corrals. INFED1-14-100TEA1 encumbers 1.438 acres and consists of four components identified as Parcels A, B, C and D on Exhibit B attached. Parcel A varies in width from 50' to 100' and contains 0.986 acre. It extends 580' into the parcel from the north property line between the residence and the barns/corrals. The primary use of Parcel A is for the drilling and operation of

the de-watering wells and associated water treatment facilities. Parcels B and C comprise the temporary access road which varies from 15' to 20' in width and contains a total area of .0308 acre. Parcel D is a 30' wide strip containing 0.145 acre which will be used for conduits conveying water from the de-watering wells into the creek. These easements are required to access, drill, operate and monitor a series of de-watering wells and associated water treatment facilities located along the permanent underground tunnel alignment. The water extracted will be treated onsite in baker tanks and will then be pumped into the creek downstream from the project.

INFED1-14-100PEA1 is a permanent subsurface easement with depths averaging 246 feet below the surface. However, the tunnel depth within the northwesterly portion of the property near the residence and other improvements is about 100' below the surface.

The temporary five year easement (INFED1-14-100TEA1) has been appraised at \$24,100 and the permanent tunnel easement (INFED1-14-100PEA1) has been appraised at \$1,000. An offer to purchase the easements has been made to the property owners but no agreement has been reached for either parcel.

On June 3, 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 June 23, 1998, as to the necessity for the Project and the taking of the easements, was served on the property owners. The Eminent Domain Law requires an owner to provide a written request for a hearing within 15 days after the notice was served to be entitled to a hearing on the adoption of a resolution of necessity. No written request was received and the property owner did not appear at the hearing. A written summary of the hearing and the recommendation of the Special Committee on Real Property Management is attached. 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 temporary and permanent easements described in Exhibits A and B, attached thereto, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the temporary and permanent 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:10986

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 23, 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 presided. The Committee was called to order and a quorum was present.

Senior Deputy General Counsel Marcia Scully advised the Committee that it has been delegated the authority by Metropolitan's Board of Directors to hold the hearing required by law as a prerequisite to the adoption of a resolution 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.

Ms. Scully further advised the Committee that the offer to purchase the property had been made to the owner in accordance with the law. The owner was provided written notice of the hearing, but counsel for the owner indicated that no appearance would be made.

Mr. James Gallanes made a presentation regarding the Inland Feeder Project, and identified the subject property located in Riverside County. The Riverside Badland's Tunnel will cross the property at depths ranging from about 100 feet to 500 feet. The tunnel will be constructed through alluvium on the property and it is necessary to temporarily lower the groundwater levels below the tunnel depth during construction. Chairman King inquired into the ability to legally release the water, and Mr. Gallanes responded that the releases would be properly permitted.

The Committee voted unanimously to recommend adoption of the 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 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 permanent and temporary 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.

Section 3. The District's Board hereby declares its intention to acquire the temporary and 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 and temporary 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 has been made to the owners 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 Riverside for the purpose of condemning and acquiring the permanent and temporary 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 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.

Executive Secretary
The Metropolitan Water District of
Southern California

EXHIBIT A

1. A temporary easement for a term of five (5) years commencing on the effective date of an order for possession, in the property located in the County of Riverside, State of California, described herein as Parcel INFED1-14-100TEA1 and as shown on Exhibit B, attached hereto, for purposes of constructing, operating, accessing and monitoring water wells and related water treatment and release facilities reasonably necessary for the temporary de-watering of the subsurface of the property for construction of a water conveyance tunnel therein, and subject to the following conditions:
 - A. Entry upon the easement area shall be limited to the hours of 7:00 a.m. to 7:00 p.m., except that in case of emergency entry is allowed to protect the tunnel construction facilities and the property;
 - B. The easement area may be fenced to keep livestock away from the facilities, provided that reasonable access across the easement area shall be provided to the Owners.
 - C. Prior to termination of the easement, all facilities shall be removed and wells closed in accordance with applicable requirements, and the property and any improvements located thereon shall be restored or repaired to a condition as near as practicable to the condition that existed prior to the use of the easement.
2. A permanent easement to construct, operate, maintain, and reconstruct a tunnel for the purpose of transporting water through and across the property located in the County of Riverside, State of California, described herein as Parcel INFED1-14-100PEA1, and shown on the Exhibits B, attached hereto.

EXHIBIT A

INFED1-14-100TEA1
Temporary Easement Deed
Vaughan H. Shoemaker, et al
Trustees

Those certain parcels of land hereinafter designated as Parcel A, Parcel B, Parcel C, and Parcel D lying within Lot 2 of Section 18, Township 2 South, Range 2 West, San Bernardino Meridian, in the County of Riverside, State of California, described as follows:

PARCEL A

Commencing at the northeast corner of said Section 18, as marked by a 3" Brass Disk stamped "S.B. COUNTY S7, S8, S18, S17 T2S R2W - RIV. COUNTY" as shown on Record of Survey filed in Book 97, pages 75 and 76, of Record of Surveys, records of said County; thence westerly along the north line of said Section 18, N 86° 27' 17" W 2119.80 feet to the POINT OF BEGINNING; thence continuing along said north line N 86° 27' 17" W 50.35 feet; thence leaving said north line S 03° 12' 03" E 311.41 feet to a point hereinafter referred to as Point "A"; thence continuing S 03° 12' 03" E 269.17 feet; thence N 86° 47' 57" E 100.00 feet; thence N 03° 12' 03" W 280.00 feet; thence S 86° 47' 57" W 50.00 feet; thence N 03° 12' 03" W 294.67 feet to the POINT OF BEGINNING.

PARCEL B

A strip of land 20 feet wide, the sidelines of said strip lying 10.00 feet, measured at right angles or radially, on each side of the following described centerline:

Beginning at said above mentioned Point "A", said point being the beginning of a nontangent curve concave south-erly having a radius of 600.00 feet, a radial line to said point bears N 08° 29' 19" E; thence westerly along the arc of said curve 118.74 feet; thence tangent to said curve S 87° 09' 01" W 262.81 feet to a point hereinafter referred to as Point "B", and the Point of Termination of said described line.

The sidelines of said strip of land shall be continued or shortened so as to terminate easterly on the westerly line of said Parcel A and lengthened or shortened westerly on a line that bears S 02° 50' 59" E and passes through said Point "B".

EXHIBIT A

INFED1-14-100TEA1
Temporary Easement Deed
Vaughan H. Shoemaker, et al
Trustees

PARCEL C

A strip of land 15 feet wide, the sidelines of said strip lying 7.50 feet, measured at right angles or radially, on each side of the following described centerline:

Beginning at said above mentioned Point "B", said point being the beginning of a curve concave southeasterly having a radius of 65.00 feet, a radial line to said point bears N 02° 50' 59" W; thence southwesterly along the arc of said curve 98.44 feet to a point that is 15.00 feet easterly of the west line of said Lot 2; thence tangent to said curve along a line parallel with and 15.00 feet easterly of, as measured at right angles to said west line of Lot 2, S 00° 22' 39" W 272.53 feet; thence S 86° 11' 16" W 15.04 feet to a point on the centerline of Oak Grove Drive as shown on Tract No. 16039 filed in Book 120, pages 77 through 79, inclusive, of Maps, records of said County, said point also being on the west line of said Lot 2 and the Point of Termination of said described centerline.

The sidelines of said strip shall be lengthened, shortened, and intersect, where necessary to create a continuous boundary and so as to terminate westerly on the west line of said Lot 2 and easterly on the westerly termination of said 20 foot wide strip of land described as Parcel "B" above.

PARCEL D

A strip of land 30.00 feet wide, the sidelines of said strip lying 15.00 feet, measured radially, on each side of the following described centerline:

Commencing at said northeast corner of Section 18; thence along the north line of said Section 18, N 86° 27' 17" W 2310.68 feet to the POINT OF BEGINNING of said

EXHIBIT A

INFED1-14-100TEA1
Temporary Easement Deed
Vaughan H. Shoemaker, et al
Trustees

described centerline, said point being the beginning of a nontangent curve concave easterly having a radius of 125.00 feet, a radial line to said point bears N 83° 02' 26" W; thence southerly along the arc of said curve 82.79 feet to the beginning of a noncompound curve concave northerly having a radius of 700.00 feet, a radial line to said beginning bears S 06° 10' 59" W; thence easterly along the arc of said curve 127.62 feet to the westerly line of the above described Parcel "A", and the POINT OF TERMINATION of said described centerline.

The sidelines of said strip of land shall be continued or shortened so as to intersect to create a continuous boundary and so as to terminate northerly on said north line of Section 18, and easterly on said westerly line.

PREPARED UNDER MY SUPERVISION

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

Date



Exhibit B

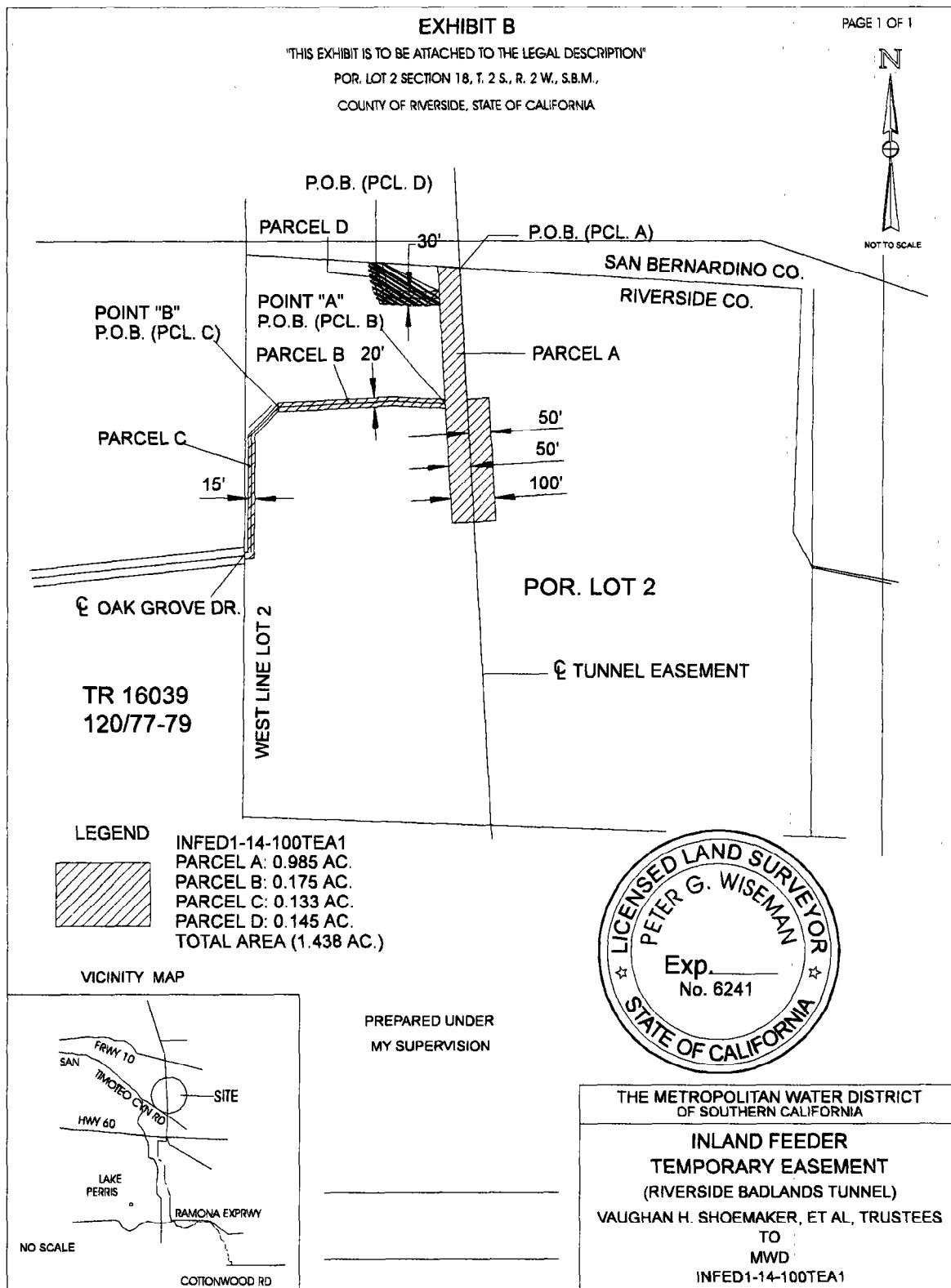


EXHIBIT A

INFED1-14-100PEA1
Tunnel Easement)
Vaughan H. Shoemaker, et al
Trustees

That portion of Lot 7 and that portion of Lot 2 of Section 18, Township 2 South, Range 2 West, San Bernardino Meridian, in the County of Riverside, State of California, lying between the elevations of 1669.4 feet and 1722.0 feet inclusive, based on the North American Vertical Datum of 1988 as published in May 1994 by the National Geodetic Survey, and lying within the following described strip of land:

A strip of land 100 feet wide lying 50 feet, measured at right angles, on each side of the following described line:

Commencing at the northeast corner of said Section 18, being marked by a 3" Brass Disk stamped "S.B. County S7, S8 T2S R2W - RIV. County S18, S17 T2S R2W" as shown on Record of Survey filed in Book 97, pages 75 and 76, of Record of Surveys, records of said County; thence westerly along the north line of said Section 18, N 86° 27' 17" W 2119.80 feet to the TRUE POINT OF BEGINNING of said described line; thence S 03° 12' 03" E 5119.55 feet to a point on the south line of said Section 18, said point being S 89° 27' 48" E 807.01 feet from the south quarter corner of said Section 18 as marked by a 1" i.p. tagged L.S. 3442 as shown on said Record of Survey.

The sidelines of said 100 foot wide strip are to be extended or shortened so as to terminate on the north line of said Section 18.

PREPARED UNDER MY SUPERVISION

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

Date



Exhibit B

