



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-15

August 20, 1998

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

**From:** *for* General Manager

**Submitted by:** Chief Engineer

*Edward J. Meyer*  
*Wynne R. Finkle*

**Subject:** Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in San Bernardino County, California, identified by Assessor's Parcel Number 0291-021-04, MWD's Right-of-Way Parcel Number INFED1-29-102TEA1 and Owner's Name: East San Bernardino County Water District

### **RECOMMENDATION**

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It is recommended that the Board of Directors adopt, by a two-thirds vote, a 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 said property.

### **EXECUTIVE SUMMARY**

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Metropolitan will require a three-year temporary construction easement on real property owned by the East San Bernardino County Water District and as 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 easement as required by California Government Code section 7267.2 was made, an agreement has been reached, but a resolution of necessity is recommended so that Metropolitan can take immediate possession as needed.

### **DETAILED REPORT**

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Metropolitan seeks a three-year temporary construction easement across property owned by the East San Bernardino County Water District in the south-central part of the City of Highland west of Boulder Avenue (State Highway 30), 270 feet north of Eucalyptus Avenue. The larger parcel contains 0.358 acre and is vacant. The temporary construction easement is over the northeasterly 100 feet of the larger parcel and consists of 0.349 acre. The easement is required to store equipment and supplies, to provide access to the construction area and to temporarily stockpile material excavated from the pipeline right-of-way. The easement has been appraised at \$3,750.

On August 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 August 25, 1998, as to the necessity for the Project and the taking of the easement ("notice"), was served on the East San Bernardino County Water District. On August 4, 1998, a revised notice was served on the East San Bernardino County Water District. 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 East San Bernardino County Water District did not appear at the hearing. A written summary of the hearing and recommendation of the Special Committee on Real Property Management is attached. The Special Committee voted 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 easement described in Exhibits A and B, attached thereto, and directing the General Counsel to commence condemnation proceedings in San Bernardino County to acquire the temporary easement.

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:11597

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 August 25, 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 Lauren Brainard 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.

Mr. Brainard further advised the Committee that the offer to purchase the property had been made to the owner in accordance with the law and that the East San Bernardino County Water District agreed upon the purchase price for the property and that agreements were being prepared. Mr. Brainard further advised that the hearing on the resolution was being held in order to insure possession before the end of the year. The East San Bernardino County Water District was provided written notice of the hearing, but no request to appear was received and no appearance was made.

Mr. Brainard made a presentation regarding the Inland Feeder Project, and identified the subject property located in San Bernardino County west of Boulder Avenue.. Mr. Brainard advised the Committee that the property owned by East San Bernardino County Water District was vacant land and that the temporary easement was necessary for lay down storage and construction access.

Director Barbosa inquired about fencing around the easement area and Mr. Brainard stated that the easement area would be fully fenced by the contractor prior to construction.

Director Wein inquired about liability of the property owners and Mr. Brainard stated that Metropolitan assumed all liability in connection with the construction of the pipeline.

The Committee voted 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 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 temporary easement to be acquired for the public use set forth in section 1, above, consist of a parcel of land described in Exhibit A attached hereto and incorporated herein by reference and shown on Exhibit B attached hereto and incorporated herein by reference.

Section 3. The District's Board hereby declares its intention to acquire the temporary easement 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 temporary easement described in Exhibits A and B attached hereto are necessary for the proposed Project.

Section 6. The District's Board finds and determines that pursuant to Section 1240.510, et seq. of the California Code of Civil Procedure, the public use for which the District is acquiring the easement will not unreasonably interfere with or impair the continuance of the public use for which the property is now appropriated and such use now exists or may reasonably be expected to exist in the future.

Section 7. The District's Board finds and determines that, pursuant to Section 1240.610 et seq. of the California Code of Civil Procedure, the public use for which the District is acquiring the easement is a more necessary public use than the use to which the property is appropriated.

Section 8. The District's Board hereby finds and determines that the offer 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 9. 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 temporary easement 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 easement 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 easement 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 15th day of September, 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. A temporary easement for a term of three (3) years commencing on the effective date of an order for possession, in the property located in the County of San Bernardino, State of California, described herein as Parcel INFED1-29-102TEA1 and as shown on Exhibit B, attached hereto, for purposes of construction of a water conveyance pipeline, and subject to the following conditions:

Prior to termination of the easement, all facilities placed on the property by Metropolitan or its contractors shall be removed 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 Metropolitan's use of the easement.

EXHIBIT A

INFED1-29-102TEA1  
(Temporary Easement)  
East San Bernardino  
County Water District,  
a Corporation

That certain parcel of land in the north half of the southwest quarter of the southwest quarter of the northwest quarter of Section 3, Township 1 South, Range 3 West, San Bernardino Meridian, in the City of Highland, County of San Bernardino, State of California, conveyed to East San Bernardino County Water District as Parcel 2 by Director's Deed recorded April 23, 1965, in Book 6377, page 475 of Official Records of said County.

EXCEPTING therefrom that portion lying southwesterly of a line parallel with and distant 100.00 feet southwesterly of, as measured at right angles to, the southwesterly right of way line of Boulder Avenue (State Highway 30), as conveyed to the State of California by Grant Deed recorded June 23, 1948, in Book 2250, page 231, 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



