



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

OCT 13 1998

8-13

David Chen
EXECUTIVE SECRETARY September 22, 1998

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

From: *for* General Manager

Submitted by: Gary M. Snyder
Chief Engineer

Timothy D. ...
Gary M. Snyder

Subject: Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Inland Feeder Project in Riverside County, California, identified by Assessor's Parcel Number 413-390-011, MWD's Right-of-Way Parcel Number INFED1-12-103TEA1 and Owner's Name: Donald A. Giardini

RECOMMENDATION

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

EXECUTIVE SUMMARY

Metropolitan will require a five-year temporary construction easement across the real property owned by Donald A. Giardini as 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 easement as required by California Government Code section 7267.2 was made, but no agreement has been reached. Adoption of a resolution of necessity as attached is recommended to authorize the commencing of an eminent domain action to acquire the property.

DETAILED REPORT

Metropolitan seeks a five-year temporary construction easement across property owned by Donald A. Giardini located on the south side of San Timoteo Canyon Road, about two miles south of Redlands Boulevard in Riverside County. The easement is required as a shaft site and staging area to support construction of the subsurface tunnel easement. The subsurface tunnel easement (INFED1-12-103PEA1) has already been acquired by Metropolitan. The property is vacant land and Metropolitan's easement encumbers 14.53 acres of a larger parcel (26.44 acres), and has been appraised at \$107,000.

On September 4, 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 September 22, 1998, as to the necessity for the Project and the taking of the easement, was served on the property owner. 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 owners 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 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 Riverside County to acquire the temporary easement.

On February 9, 1993, the 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 the Board to act on this request.

ks:12004

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 September 22, 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 easements to be acquired are necessary for the Project.

Mr. Brainard further advised the Committee that the offer to purchase the easement had been made to the owner in accordance with the law. The owner 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 as a five year temporary construction easement located on the south side of San Timoteo Canyon Road, is required as a shaft site and staging area, and encumbers approximately 14 acres for the Riverside Badlands Tunnel. The subsurface tunnel easement had already been acquired by Metropolitan. Director Peterson asked the purpose of the shaft sites. Project Manager Dennis Majors replied that the shaft sites were necessary for access and ventilation.

The Committee voted to recommend adoption of the resolution of necessity.

RESOLUTION 8612

**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 property situated in the County of Riverside are necessary therefor.

Section 2. The temporary easement to be acquired for the public use set forth in section 1, above, consists 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. The property is located within the District's boundaries.

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 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 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 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 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 13th day of October, 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

Attachment to 8-13
Engineering Division
September 22, 1998
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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 Parcels INFED1-12-103TEA1 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 contractor 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

INFED1-12-103TEA1
Donald A. Giardini, et al.,
Trustees

That portion of the northwest quarter of the southeast quarter of Section 19,
Township 2 South, Range 2 West, San Bernardino Meridian, in the County of Riverside, State of
California, lying southerly of San Timoteo Canyon Road as shown on Record of Surveys, in the
Office of the County Recorder of Said County.

EXCEPTING therefrom the westerly 500 feet.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



Exhibit B

