



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

OCT 13 1998

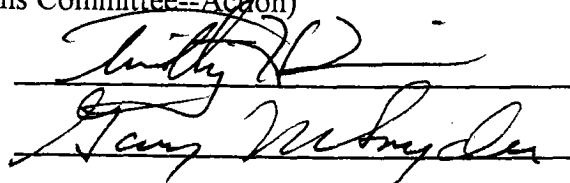

EXECUTIVE SECRETARY

September 22, 1998

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

From: *for* General Manager

Submitted by: Gary M. Snyder
Chief Engineer



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 0297-121-03, -04, and -05, MWD's Right-of-Way Parcel Number INFED1-27-800TEA1 and Owners' Names: Paul Golub, Albert Thompson, and Sam and Mary Perricone

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 San Bernardino County to acquire said property.

EXECUTIVE SUMMARY

Metropolitan will require a three-year temporary construction easement across the real property owned by Paul Golub, Albert Thompson, and Sam and Mary Perricone 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, 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 three-year temporary construction easement across property owned by several property owners located at the northwest corner of the intersection of the AT&SF Railroad right-of-way along Opal Avenue and San Bernardino Avenue, approximately 4.5 miles northeast of the City of Redlands in San Bernardino County. The easement is required to provide access to the construction area and to temporarily stockpile materials excavated from the pipeline right-of-way. The temporary easement is approximately 100 feet wide lying on the west side of Opal Avenue and runs the length of the property. The larger property is improved with a

single family residence, out buildings, and a citrus grove. Metropolitan's easement encumbers 6.173 acres of a larger parcel (32.474 acres), improved with a citrus grove, irrigation distribution line and related filtration unit. Metropolitan will relocate the irrigation distribution line and filtration unit. The easement has been appraised at \$75,662. The residence and out buildings will not be impacted by Metropolitan's easement, however Metropolitan will have to remove approximately 6.173 acres of the existing citrus grove.

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 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 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 San Bernardino 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. The Board's 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:12007

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 owners in accordance with the law. The owners were 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 three year 100 foot wide temporary construction easement located in San Bernardino County located at the corner intersection of the AT&SF Railroad right-of-way along Opal Avenue. The easement runs the length of the property. The property is improved with a residence, out buildings and a citrus grove. The residence and out buildings will not be impacted by Metropolitan's easement, however Metropolitan will impact existing citrus groves in the take area. Metropolitan will relocate the irrigation lines and filtration unit within the take area as well.

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

RESOLUTION 8609

**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, 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.

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 owners 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 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 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

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 INFED1-27-800TEA1, 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 or soils 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. Metropolitan will not be required to restore vegetation to its pre-existing condition.

EXHIBIT A

INFED1-27-800TEA1
(Temporary Easement)
Sam Perricone, et al

A strip of land 100 feet wide in the County of San Bernardino, State of California, lying within Blocks 4 and 5 as shown on map recorded in Book 8, page 81 of Maps in the Office of the County Recorder of said County and lying within those portions of Baden Avenue and Carlsbad Avenue as shown on said map, vacated by Resolution of the Board Of Supervisors of said County recorded June 8, 1945 in Book 1791, page 141 and February 27, 1948 in Book 2155, page 321, respectively, both of Official Records of said County, the westerly and southwesterly line of said 100 foot wide strip is parallel with and 100 feet westerly and southwesterly of, as measured at right angles and radially to, the westerly and southwesterly line of that certain parcel of land conveyed to The Metropolitan Water District of Southern California by Grant Deed recorded September 25, 1995 as Document No. 19950331797 Official Records of said County.

The sidelines of said 100 foot wide strip of land shall be lengthened or shortened so as to terminate northerly, on the northerly line of said Block 4, and southerly on the northerly right of way line of San Bernardino Avenue as shown on said map.

For purposes of this description the northerly line of said Block 4 is coincident with the center line of Baden Avenue as shown on said map.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date

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July 15, 1998

Exhibit B

EXHIBIT B

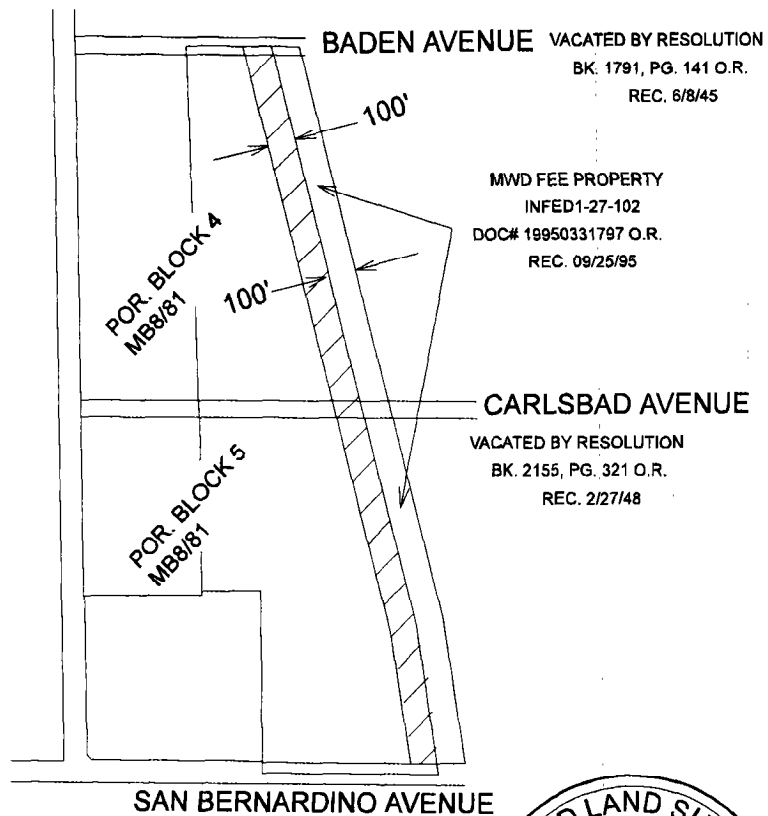
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"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"

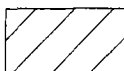
POR. BLOCK 4 AND POR. BLOCK 5, MB 8, PAGE 81
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



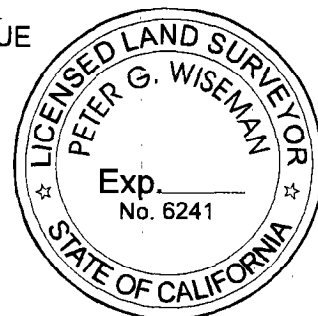
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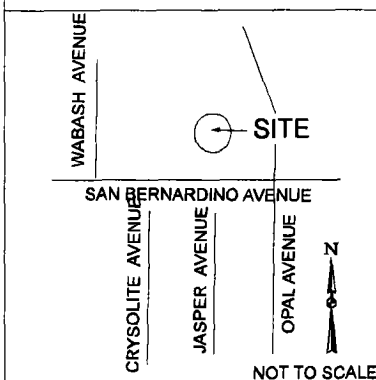
LEGEND



TEMPORARY EASEMENT
INFED1-27-800TEA1
(6.156 ACS. TOTAL)



VICINITY MAP



PREPARED UNDER
MY SUPERVISION

P.L.S. 6241

DATE

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

INLAND FEEDER
TEMPORARY EASEMENT

SAM PERRICONE et al
TO
MWD

INFED1-27-800TEA1