

October 15, 1998

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

**From:** 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 0299-021-14, -20, and -21, MWD's Right-of-Way Parcel Number INFED1-25-100TEA1 and Owner's Name: Beverly L. Buoye, Trustee

## **RECOMMENDATION**

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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, and directing the General Counsel to commence condemnation proceedings to acquire the property.

## **EXECUTIVE SUMMARY**

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Metropolitan will require a three-year temporary construction easement across real property owned by Beverly L. Buoye 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. A resolution of necessity is recommended to authorize the commencing of an eminent domain action to acquire the property.

## **DETAILED REPORT**

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Metropolitan seeks a three-year temporary construction easement across property owned by Barbara L. Buoye located on the northwest corner of Citrus and Opal Avenues, approximately four miles east of the business center 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 and to support construction of the subsurface tunnel. A permanent easement (INFED1-25-100PEA) over a portion of the larger parcel has already been acquired by Metropolitan. The larger parcel is improved with a shop building, drive-through Mini-Mart, a storage building and chain link fencing around the perimeter of the property. The building improvements are located outside of the temporary easement area. However, the easement area is improved with a citrus grove, and supporting irrigation system.

Access to the property and irrigation distribution facilities will be maintained by Metropolitan during the term of the temporary easement and Metropolitan will reimburse the property owner for the cost of moving the main irrigation distribution line and related filtration unit from the area of the temporary easement. Metropolitan's easement encumbers .516 acre of a larger parcel (12.447 acres) and has been appraised at \$9,264.

On October 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 October 27, 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.

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.

ks12270

**Attachment 8-8A**

**Attachment 8-8B**

**Exhibit A**

**Exhibit B**

**Attachment 8-8A**

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 October 27, 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 temporary construction easement located in San Bernardino County on the northwest corner of Citrus and Opal Avenues. The larger parcel is improved with a shop building, drive through Mini-Mart, storage building and chain link fencing around the perimeter of the property and a citrus grove. The building improvements are located outside the temporary easement area, however Metropolitan will impact existing citrus groves in the take area. Metropolitan will relocate the irrigation lines and filtration units within the take area as well.

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

**Attachment 8-8B**

**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, 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 10th day of November, 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 INFED1-25-100TEA1, 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 B

EXHIBIT A

INFED1-25-100TEA1  
(Temporary Easement)  
Beverly L. Buoye, Trustee

That portion of Lot 2, Block 2 of Judson's Subdivision, in the County of San Bernardino, State of California, as shown on map recorded in Book 12, page 15 of Maps, in the office of the County Recorder of said County, described as follows:

Commencing at the southeast corner of said Lot 2, also being the centerline intersection of Citrus Avenue and Opal Avenue North, as marked by "1" I.P. C.S.M." as shown on Record of Survey filed in Book 102, Pages 3 through 9 inclusive of Record of Surveys, records of said County; thence along the centerline of said Citrus Avenue as shown on said Record of Survey, S 89° 30' 34" W 115.00 feet to the westerly line of that permanent easement conveyed to The Metropolitan Water District of Southern California recorded October 24, 1996 as Document No. 19960393431 of Official Records of said County; thence leaving said centerline and along said westerly line N 00° 29' 16" W 44.00 feet to a point on the northerly right of way line of Citrus Avenue as described in Deed to the County of San Bernardino recorded January 27, 1961 in Book 5337, page 388 of Official Records of said County, said point also being the POINT OF BEGINNING; thence continuing along said westerly line N 00° 29' 16" W 60.29 feet; thence N 44° 30' 44" E 115.97 feet to a point on the westerly right of way line of Opal Avenue as described in said Deed to the County of San Bernardino; thence leaving said westerly line and along said westerly right of way line N 00° 29' 16" W 53.72 feet; thence leaving said westerly right of way line S 89° 30' 34" W 157.00 feet; thence S 00° 29' 16" E 196.00 feet to a point on said northerly right of way line of Citrus Avenue; thence along said northerly right of way line N 89° 30' 34" E 75.00 feet to the POINT OF BEGINNING.

PREPARED UNDER MY SUPERVISION

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

\_\_\_\_\_  
Date



**EXHIBIT B**

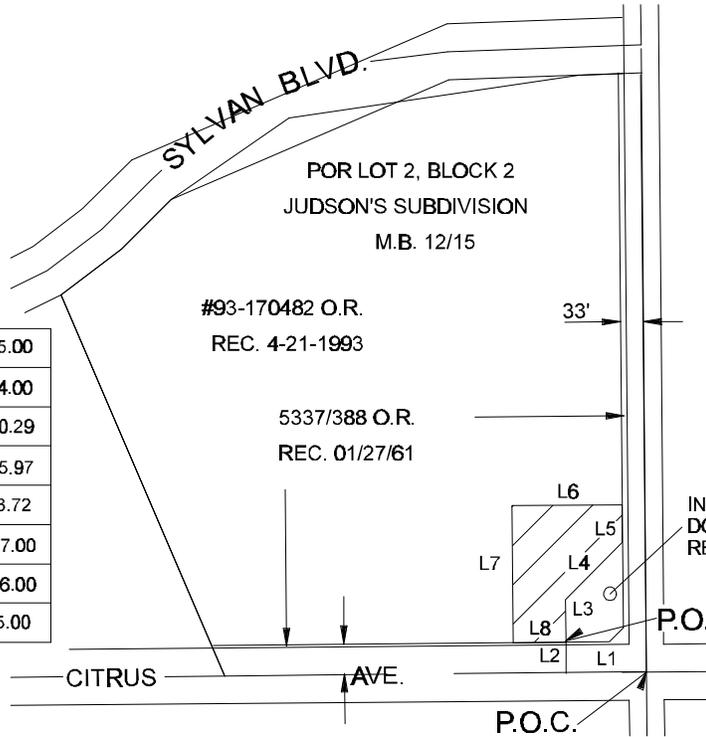
PAGE 1 OF 1

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

POR. LOT 2, BLOCK 2, JUDSON'S SUBDIVISION,  
 RANCHO SAN BERNARDINO, M.B. 12, PG. 15,  
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



NOT TO SCALE



COURSE TABLE

L1	S 89°30'34" W	115.00
L2	N 00°29'16" W	44.00
L3	N 00°29'16" W	60.29
L4	N 44°30'44" E	115.97
L5	N 00°29'16" W	53.72
L6	S 89°30'34" W	157.00
L7	S 00°29'16" E	196.00
L8	N 89°30'34" E	75.00

INFED1-25-100PEA1  
 DOC No. 19960393431  
 REC 10/24/96 O.R.

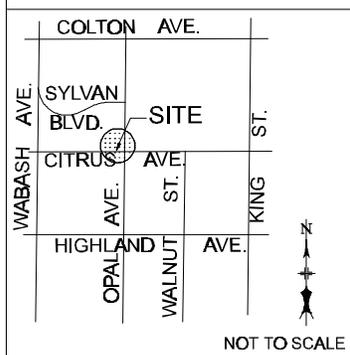
**LEGEND**



TEMPORARY EASEMENT  
 INFED1-25-100TEA1  
 (0.516 AC. TOTAL)



**VICINITY MAP**



NOT TO SCALE

PREPARED UNDER  
 MY SUPERVISION

P.L.S. 6241

DATE

THE METROPOLITAN WATER DISTRICT  
 OF SOUTHERN CALIFORNIA

INLAND FEEDER  
 TEMPORARY EASEMENT  
 BEVERLY L. BUOYE, TRUSTEE  
 TO  
 MWD  
 INFED1-25-100TEA1