

May 14, 1999

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 Numbers, MWD’s Right-of-Way Parcel Numbers and Owners’ Name Attached hereto. (Cheeley, Miller, et al., and Kreutzer).

RECOMMENDATION

It is recommended that the Board of Directors adopt, by a two-thirds vote, the resolution of necessity to condemn the properties described in Exhibits A and B, attached hereto, in accordance with the eminent domain law, and directing the General Counsel to commence condemnation proceedings to acquire the properties.

EXECUTIVE SUMMARY

Metropolitan will require three four year temporary construction easements and three permanent easements across real property owned by the property owners listed on the attachment hereto and as described in Exhibits A and B, attached hereto, located in San Bernardino County, California, for portions of the Inland Feeder Project. Offers to purchase the easements as required by California Government Code section 7267.2 were made, but no agreements have 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 three four year temporary construction easements and three permanent easements across property owned by several property owners north of the north end of David Way in San Bernardino County, California. There is an existing 20-foot wide road easement containing a single lane dirt road used by the U.S. Forestry Service trucks for fire prevention and fire fighting purposes, and by neighbors for hiking. At the end of David Way there is a locked gate that restricts access. The dirt road is to be widened, graded to a more uniform surface, and paved. The road is intended to be developed for use as a permanent service road to Metropolitan’s Strawberry Creek Portal site. The permanent easements are for access and slope maintenance purposes. The road currently within the permanent easements will be widened and paved with asphalt. Widening will involve grading some

natural slopes, which will result in removal of some vegetation. Drainage will be provided for through construction of v-gutters. The slopes will be replanted with slope-retention, drought-tolerant landscaping. The three four year temporary construction easements are for the right to enter and utilize the property for temporary grading, spoil, staging, and related activities in connection with the improvement of an access road and drainage ditch. Upon completion of the grading within the temporary easements Metropolitan will provide erosion control landscaping.

Parcels INFED1-31-111TEA1 and -PEA1 are owned by James E. and Michelle Cheeley. The larger parcel consists of 6.34 acres and is improved with a single family residence. The temporary easement (INFED1-31-111TEA1) encumbers 0.230 acres and the permanent easement (INFED1-31-111PEA1) encumbers 0.222 acres. Together, the permanent and four year temporary construction easements have been appraised at \$19,738.

Parcels INFED1-31-112TEA1 and -PEA1 are owned by Carol J.G. Miller, Vicki E. Gutzwiller and Patricia G. Zaya. The larger parcel is vacant and consists of 1.30 acres. The temporary easement (INFED1-31-112TEA1) encumbers 0.250 acres and the permanent easement (INFED1-31-112PEA1) encumbers 0.112 acres. Together, the permanent and four year temporary construction easements have been appraised at \$5,074.

Parcels INFED1-31-113TEA1 and -PEA1 are owned by Donald R. Kreutzer. The larger parcel consists of 1.775 acres and is improved with a single family residence. The temporary easement (INFED1-31-113TEA1) encumbers 0.039 acres and the permanent easement (INFED1-31-113PEA1) encumbers 0.128 acres. Together, the permanent and temporary construction easements have been appraised at \$11,447.

On May 4, 1999, notices of intention to adopt a resolution of necessity and for an opportunity to appear and be heard before the Subcommittee on Real Property and Asset Management on May 25, 1999, as to the necessity for the Project and the taking of the easements, were 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 Subcommittee on Real Property and Asset Management is attached. The 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 easements and permanent easements 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 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:13937

Attachment 9-8A

Attachment 9-8A

SUMMARY OF HEARING AND RECOMMENDATION
OF THE SUBCOMMITTEE ON REAL PROPERTY
AND ASSET MANAGEMENT REGARDING ADOPTION
OF A RESOLUTION OF NECESSITY TO CONDEMN
PROPERTY FOR THE INLAND FEEDER PROJECT

On May 25, 1999, at the offices of The Metropolitan Water District of Southern California, located at 700 South Alameda Los Angeles, California, Room 2-145, a hearing was held by the Subcommittee on Real Property and Asset Management of the Board of Directors. Committee Chairman Edward C. Little 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 offers to purchase the easements have been made to the owners in accordance with the law. The owners were provided with written notices of the hearing, but no request to appear was received and no appearance was made. All three acquisitions are currently in escrow but a resolution is needed at this time to assure timely possession.

Mr. Brainard made a presentation regarding the Inland Feeder Project, and identified the subject takes as three four year temporary construction easements and three permanent easements across properties owned by several property owners north of the north end of David Way in San Bernardino County, California. There is an existing 20-foot wide road easement containing a single lane dirt road used by the U.S. Forestry Service trucks for fire prevention and fire fighting purposes, and by neighbors for hiking. At the end of David Way there is a locked gate that restricts access. The dirt road is to be widened, graded to a more uniform surface, and paved. The road is intended to be developed for use as a permanent service road to Metropolitan's Strawberry Creek Portal site. The permanent easements are for access and slope maintenance purposes. The road currently within the permanent easements will be widened and paved with asphalt. The three four year temporary construction easements are for the right to enter and utilize the properties for temporary grading, spoil, staging, and related activities in connection with the improvement of the access road and a drainage ditch. Upon completion of the grading within the temporary easements Metropolitan will provide erosion control landscaping.

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 and permanent easements to be acquired for the public use set forth in section 1, above, consists of parcels of land located 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), namely West's Water Code Appendix Section 109-141.

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 and permanent easements 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 temporary and permanent easements 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 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 and permanent easements described in Exhibit 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 8th day of June, 1999, a 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

ASSESSOR'S PARCEL NO.	MWD PARCEL NO.	PROPERTY OWNERS
155-482-17	INFED1-31-111TEA1, and -PEA1	James E. and Michelle Cheeley
155-482-16	INFED1-31-112TEA1, and -PEA1	Carol J.G. Miller, Vicki E. Gutzwiller and Patricia G. Zaya.
155-482-05	INFED1-31-113TEA1, and -PEA1	Donald R. Kruetzer

EXHIBIT A

1. A temporary easement for a term of four (4) years commencing on the effective date of an order of possession, in properties located in the County of San Bernardino, State of California, described herein as Parcels INFED1-31-111TEA1, -112TEA1 and -113TEA1, and shown on the Exhibits B attached hereto, for the purpose of temporary grading, spoil, staging and related activities with the improvement of an access road and drainage ditch. Upon completion of grading within the temporary construction easements Metropolitan will provide erosion control landscaping suitable to protect the slopes and will re-install the owners' existing irrigation systems sufficient to maintain the landscaping on the slopes. Owners will be responsible for maintaining landscaping and irrigation systems for slope areas along access road after construction. Owners shall retain the right of access over and across the easement area, and Metropolitan shall not unreasonably interfere with such right of access.

2. A permanent non-exclusive easement for ingress and egress along an existing access road and for slope maintenance commencing on the effective date of an order of possession, in properties located in the County of San Bernardino, State of California, described as parcels INFED1-31-111PEA1, -112PEA1 and -113PEA1 and shown on the Exhibits B attached hereto for the purpose of widening, grading and paving an existing dirt road. Metropolitan will fill and make slope cuts as required, and install a gate, drainage V-ditch and side slope landscaping. Owners shall retain the right of access over and across the easement area, and Metropolitan will not unreasonably interfere with such right of access.

EXHIBIT A

INFED1-31-111PEA1
(Permanent Easement)
James E. Cheeley, et ux

That portion of the southeast quarter of the northeast quarter of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land described in Quitclaim Deed recorded May 21, 1986, as Document No. 86-132339 of Official Records of said County, lying southwesterly of the following described line:

Commencing at the most westerly corner of said Quitclaim Deed; thence along the northwesterly line of said Quitclaim Deed, N 52° 06' 05" E 24.04 feet to the POINT OF BEGINNING of said described line and the beginning of a nontangent curve concave southwesterly, having a radius of 180.00 feet, a radial line to said beginning bears N 46° 21' 06" E; thence leaving said northwesterly line, southeasterly along the arc of said curve 41.67 feet; thence N 38° 53' 20" E 23.80 feet; thence S 58° 01' 20" E 17.10 feet; thence S 26° 04' 10" W 38.90 feet to the beginning of a nontangent curve concave southwesterly, having a radius of 180.00 feet, a radial line to said beginning bears N 68° 38' 13" E; thence southeasterly along the arc of said curve 22.73 feet; thence tangent to said curve, S 14° 07' 45" E 22.60 feet; thence N 87° 16' 10" E 13.50 feet; thence S 41° 13' 10" E 33.60 feet; thence S 57° 59' 40" E 22.00 feet; thence S 14° 51' 20" E 51.60 feet; thence S 65° 36' 10" W 40.80 feet; thence S 14° 23' 14" E 23.02 feet; thence S30° 32' 50" E 23.65 feet; thence N 73° 55' 20" E 28.10 feet; thence S 21° 29' 00" W 10.30 feet; thence S 53° 02' 50" W 21.80 feet; thence S 26° 48' 41" E 88.74 feet to a point on the southeasterly line of said Quitclaim Deed and the POINT OF TERMINATION of said described line.

EXCEPTING therefrom that portion lying within that permanent easement to the City of San Bernardino recorded April 18, 1986 as Document No. 86-101620 of Official Records of said County.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



PLEASE SEE HARD COPY FOR MAPS
(THREE MAPS)

EXHIBIT A

INFED1-31-111TEA1
(Temporary Easement)
James E. Cheeley, et ux

That portion of the southeast quarter of the northeast quarter of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land described in Quitclaim Deed recorded May 21, 1986, as Document No. 86-132339 of Official Records of said County, described as follows:

Commencing at the most westerly corner of said Quitclaim Deed; thence along the northwesterly line of said Quitclaim Deed, N 52° 06' 05" E 24.04 feet to the POINT OF BEGINNING of said described line and the beginning of a nontangent curve concave southwesterly, having a radius of 180.00 feet, a radial line to said beginning bears N 46° 21' 06" E; thence leaving said northwesterly line, southeasterly along the arc of said curve 41.67 feet; thence N 38° 53' 20" E 23.80 feet; thence S 58° 01' 20" E 17.10 feet; thence S 26° 04' 10" W 38.90 feet to the beginning of a nontangent curve concave southwesterly, having a radius of 180.00 feet, a radial line to said beginning bears N 68° 38' 13" E; thence southeasterly along the arc of said curve 22.73 feet; thence tangent to said curve, S 14° 07' 45" E 22.60 feet; thence N 87° 16' 10" E 13.50 feet; thence S 41° 13' 10" E 33.60 feet; thence S 57° 59' 40" E 22.00 feet; thence S 14° 51' 20" E 51.60 feet; thence S 65° 36' 10" W 40.80 feet; thence S 14° 23' 14" E 23.02 feet; thence S 30° 32' 50" E 23.65 feet; thence N 73° 55' 20" E 28.10 feet; thence S 21° 29' 00" W 10.30 feet; thence S 53° 02' 50" W 21.80 feet; thence S 26° 48' 41" E 88.74 feet to a point on the southeasterly line of said Quitclaim Deed; thence along said southeasterly line N 57° 06' 06" E 15.09 feet; thence leaving said southeasterly line N 26° 48' 41" W 38.04 feet; thence N 63° 11' 19" E 30.00 feet; thence N 26° 48' 41" W 88.63 feet to the beginning of a tangent curve concave northeasterly, having a radius of 135.00 feet; thence northwesterly along the arc of said curve 29.88 feet; thence tangent to said curve N 14° 07' 45" W 113.42 feet to the beginning of a tangent curve concave southwesterly, having a radius of 225.00 feet; thence northwesterly along the arc of said curve 111.40 feet to a point on the northwesterly line of said Quitclaim Deed; thence along said the northwesterly line, S 52° 06' 05" W 45.18 feet to the POINT OF BEGINNING.

EXCEPTING therefrom that portion lying within that permanent easement to the City of San Bernardino recorded April 18, 1986 as Instrument No. 86-101620 of Official Records of said County.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



EXHIBIT A

INFED1-31-113TEA1
(Temporary Easement)
Donald R. Kreutzer

That portion of the southeast quarter of the northeast quarter of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land described in Quitclaim Deed recorded May 5, 1987, as Document No. 87-147625 of Official Records of said County, described as follows:

Commencing at the most southerly corner of said Quitclaim Deed; thence northeasterly along the southeasterly line of said Quitclaim Deed N 57° 06' 06" E 279.56 feet to the POINT OF BEGINNING; thence leaving said southeasterly line N 26° 48' 41" W 82.90 feet; thence N 63° 11' 19" E 12.00 feet; thence N 26° 48' 41" W 49.63 feet; thence S 63° 11' 19" W 7.00 feet; thence S 26° 48' 41" E 45.63 feet; thence S 63° 11' 19" W 20.00 feet; thence S 26° 48' 41" E 88.50 feet to the southeasterly line of said Quitclaim Deed; thence along said southeasterly line, N 57° 06' 06" E 15.09 feet to the POINT OF BEGINNING.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



PLEASE SEE HARD COPY FOR MAP
(ONE MAP)

EXHIBIT A

INFED1-31-112TEA1
(Temporary Easement)
Carol J. G. Miller, et al

That portion of the southeast quarter of the northeast quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land conveyed to Carol J. G. Miller, et al, by Decree of Distribution, Case No. SPR 57095, recorded November 8, 1993, as Document No. 93-485525 of Official Records of said County, described as follows:

Commencing at the northwest corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ as marked by a 3 1/2" i.p. with wood plug tagged RCE 4562 as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive of Record of Surveys of said County; thence along the northerly line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$, N 89° 56' 56" E 47.34 feet to the POINT OF BEGINNING; thence leaving said northerly line, S 09° 34' 03" E 9.58 feet to the beginning of a tangent curve concave westerly, having a radius of 120.00 feet; thence southerly along the arc of said curve 17.70 feet; thence S 13° 37' 30" E 24.70 feet; thence S 01° 21' 40" W 23.40 feet; thence S 19° 41' 20" W 19.70 feet; thence S 05° 31' 00" W 23.80 feet; thence S 69° 24' 50" W 8.71 feet to the beginning of a nontangent curve concave northeasterly having a radius of 110.00 feet, a radial line to said beginning bears S 84° 58' 25" W; thence southeasterly along the arc of said curve 96.75 feet; thence tangent to said curve S 55° 25' 21" E 18.78 feet to the beginning of a tangent curve concave southwesterly having a radius of 180.00 feet; thence southeasterly along the arc of said curve 36.99 feet to the southeasterly line of said Decree of Distribution; thence along said southerly line, N 52° 06' 05" E 45.18 feet to the beginning of a nontangent curve concave southwesterly having a radius of 225.00 feet, a radial line to said beginning bears N 47° 30' 16" E; thence leaving said southeasterly line, northwesterly along the arc of said curve 50.76 feet; thence tangent to said curve N 55° 25' 21" W 18.78 feet to the beginning of a tangent curve concave northeasterly having a radius of 65.00 feet, thence northwesterly along the arc of said curve 76.95 feet; thence tangent to said curve N 12° 24' 29" E 32.05 feet to the beginning of a tangent curve concave westerly, having a radius of 165.00 feet; thence northerly along the arc of said curve 63.29 feet; thence tangent to said curve N 09° 34' 03" W 2.04 feet to the northerly line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$; thence along said northerly line S 89° 56' 56" W 45.63 feet to the POINT OF BEGINNING.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



PLEASE SEE HARD COPY FOR MAP
(ONE MAP)

EXHIBIT A

INFED1-31-112PEA1
(Permanent Easement)
Carol J. G. Miller, et al

That portion of the southeast quarter of the northeast quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land conveyed to Carol J. G. Miller, et al, by Decree of Distribution, Case No. SPR 57095, recorded November 8, 1993, as Document No. 93-485525 of Official Records of said County, lying westerly and southwesterly of the following described line:

Commencing at the northwest corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ as marked by a 3 1/2" i.p. with wood plug tagged RCE 4562 as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive of Record of Surveys of said County; thence along the northerly line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$, N 89° 56' 56" E 47.34 feet to the POINT OF BEGINNING of said described line; thence leaving said northerly line, S 09° 34' 03" E 9.58 feet to the beginning of a tangent curve concave westerly, having a radius of 120.00 feet; thence southerly along the arc of said curve 17.70 feet; thence S 13° 37' 30" E 24.70 feet; thence S 01° 21' 40" W 23.40 feet; thence S 19° 41' 20" W 19.70 feet; thence S 05° 31' 00" W 23.80 feet; thence S 69° 24' 50" W 8.71 feet to the beginning of a nontangent curve concave northeasterly having a radius of 110.00 feet, a radial line to said beginning bears S 84° 58' 25" W; thence southeasterly along the arc of said curve 96.75 feet; thence tangent to said curve S 55° 25' 21" E 18.78 feet to the beginning of a tangent curve concave southwesterly having a radius of 180.00 feet; thence southeasterly along the arc of said curve 36.99 feet to the southeasterly line of said Decree of Distribution and the POINT OF TERMINATION of said described line.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



PLEASE SEE HARD COPY FOR MAP
(ONE MAP)

EXHIBIT A

INFED1-31-113PEA1
(Permanent Easement)
Donald R. Kreutzer

That portion of the southeast quarter of the northeast quarter of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, lying within the land described in Quitclaim Deed recorded May 5, 1987, as Document No. 87-147625 of Official Records of said County, lying easterly and northeasterly of the following described line:

Commencing at the most southerly corner of said Quitclaim Deed; thence northeasterly along the southeasterly line of said Quitclaim Deed, N 57° 06' 06" E 279.56 feet to the POINT OF BEGINNING of said described line; thence leaving said southeasterly line N 26° 48' 41" W 82.90 feet; thence N 63° 11' 19" E 12.00 feet; thence N 26° 48' 41" W 49.63 feet; thence S 63° 11' 19" W 7.00 feet to the beginning of a nontangent curve concave northeasterly, having a radius of 215.00 feet to which last mentioned course is radial; thence northwesterly along the arc of said curve 47.59 feet; thence tangent to said curve N 14° 07' 45" W 113.42 feet to the beginning of a tangent curve concave southwesterly, having a radius of 145.00 feet; thence northwesterly along the arc of said curve 77.98 feet to a point on the northwesterly line of said Quitclaim Deed and the POINT OF TERMINATION of said described line.

PREPARED UNDER MY SUPERVISION

Peter G. Wiseman P.L.S. 6241

Date



PLEASE SEE HARD COPY FOR MAP
(ONE MAP)