

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. (Delameter, Gomez, et al.)

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 two permanent pipeline and roadway 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 two permanent pipeline and public roadway easements across property owned by several property owners located adjacent to the north side of Abbey Way and east of Church Street in the City of Highland, County of San Bernardino, California. The easements are required for a portion of the pipeline and to widen an already existing road. Both properties are improved with single family residences, however Metropolitan's permanent easements are on the vacant portion of the properties and will not interfere with the use of the property.

Parcel INFED1-28-170PEA1 owned by Charles M. Delameter, Jr. and Thomas W. Delameter encumbers the southerly 25 feet and comprises 0.185 acres and has been appraised for \$4,650.

Parcel INFED1-28-210PEA1 is owned by Hector G. Gomez, Maria J. Gomez, Juan Manuel Gomez

Gomez, Antonio Ayala, Juana Ayala, Thomas W. Delameter, Charles M. Delameter has been appraised for \$4,150. Both portions of Abbey Way will be repaved and will be superior in the after condition.

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 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 permanent 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.

Ks13940

Attachment 9-9A

Attachment 9-9B

Attachment 9-9A

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.

Mr. Brainard made a presentation regarding the Inland Feeder Project, and identified the subject takes as two permanent pipeline and public roadway easements across property owned by different property owners located adjacent to the north side of Abbey Way and east of Church Street in the City of Highland, County of San Bernardino, California. The easements are required for a portion of the pipeline and to widen an already existing road. Both properties are improved with single family residences, however Metropolitan's permanent easements are on the vacant portion of the properties and will not interfere with the use of the property. Both properties encumber the southerly 25 feet of the larger parcels and both will be repaved in a superior after condition.

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

Attachment to 9-9B

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 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 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 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 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 permanent easements 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

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
1210-211-18	INFED1-28-170PEA1	Charles M. Delameter, Jr., and Thomas W. Delameter
1210-211-11, -12, -13, and -14	INFED1-28-210PEA1	Hector G. Gomez, Maria J. Gomez, Juan Manuel Gomez, Antonio Ayala, Juana Ayala, Charles M. Delameter and Thomas W. Delameter

EXHIBIT A

A permanent easement in the property designated as Parcel INFED1-28-170PEA1 and INFED1-28-210PEA1 for the purpose of constructing, reconstructing, maintaining, operating, enlarging, removing, and replacing a line or lines of pipe at any time, and from time to time, for water transportation, with every appendage or structure necessary or convenient to be installed at any time in connection therewith and for the purpose of placing improvements for public road and utility purposes and the rights of the public to use same; subject to the following conditions.

- A. Owner shall retain the right of access over and across the easement area, and Metropolitan shall not unreasonably interfere with such right of access.

EXHIBIT A

INFED1-28-170PEA1
(Permanent Easement)
Charles M. Delameter Jr., et al

The southerly 25.00 feet of the southwest quarter of Section 2, Township 1 South, Range 3 West, San Bernardino Meridian in the City of Highland, County of San Bernardino, State of California, lying within that parcel of land described in Quitclaim Deed recorded October 10, 1996, as Document Number 19960377548, of Official Records of said County.

EXHIBIT "B" ATTACHED HERETO AND MADE A PART THEREOF.

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION

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

Date

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November 17, 1998

PLEASE SEE HARD COPY FOR MAP
(ONE MAP)

EXHIBIT A

INFED1-28-210PEA1
(Permanent Easement)
Hector G. Gomez, et al

The southerly 25.00 feet of the west 10 acres of the southeast quarter of the southwest quarter of Section 2, Township 1 South, Range 3 West, San Bernardino Meridian in the City of Highland, County of San Bernardino, State of California.

EXHIBIT "B" ATTACHED HERETO AND MADE A PART THEREOF.

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION

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

Date

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March 08, 1999

PLEASE SEE HARD COPY FOR MAP
(ONE MAP)