

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. (McPeters, Persian International)

**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 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**

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Metropolitan will require two three year temporary construction 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**

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Metropolitan seeks two three year temporary construction easements across property owned by three property owners located west of the San Manual Indian Reservation, north of Highway 30 in a mountainous area in San Bernardino County, California. The temporary construction easements are required for the installation of a six inch underground water pipeline to mitigate any impacts that construction of the Arrowhead East Tunnel may have on existing aquifers. The pipeline will be used to recharge the groundwater aquifers and supply water to the existing natural vegetation in the event that there is a depletion of groundwater. Both properties are vacant.

Parcel INFED1-30-111TEA owned by Thomas H. McPeters and Jules J. Frimmer consists of 0.493 acres, encumbers a 15 foot strip of land, lies within an existing dirt road and has been valued at

\$1,000. Parcel INFED1-30-123 owned by Persian International Enterprises consists of 0.162 acres, also encumbers a 15 foot strip of land, lies within an existing dirt road and has been valued at \$1,000.

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 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:13939

**Attachment 9-10A**

**Attachment 9-10B**

**Attachment 9-10A**

Page 1 of 1

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. One of the acquisitions is in escrow and the other is in negotiation. A resolution is being sought at this time to assure timely possession as needed.

Mr. Brainard made a presentation regarding the Inland Feeder Project, and identified the subject takes as two three year temporary easements across property owned by two different property owner(s) located west of the San Manual Indian Reservation, north of Highway 30 in a mountainous area in San Bernardino County, California. The temporary construction easements are required for the installation of a six inch underground water pipeline to mitigate any impacts that construction of the Arrowhead East Tunnel may have on existing aquifers. The pipeline will be used to recharge the groundwater aquifers and supply water to the existing natural vegetation in the event that there is a depletion of groundwater. Both properties are vacant. Both takes encumber a 15 foot strip of land that lies within an existing dirt road and each has been valued at a nominal value of \$1000.

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

**Attachment to 9-10B**

**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 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 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 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 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 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.

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Executive Secretary  
The Metropolitan Water District of  
Southern California

ATTACHMENT

<b>ASSESSOR'S PARCEL NO.</b>	<b>MWD PARCEL NO.</b>	<b>PROPERTY OWNERS</b>
0155-361-24	INFED1-30-111TEA1	Thomas H. McPeters and Jules J. Frimmer
0155-361-18	INFED1-30-123TEA1	Persian International Enterprises

EXHIBIT A

A temporary easement for a term of three (3) 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 INFED1-30-111TEA and INFED1-30-123TEA1, and shown on the Exhibits B attached hereto, for a underground water line related to the construction of a water pipeline and related facilities on land other than such parcel. The water line will be removed and the easement area returned to a condition as near as practicable to the condition that existed prior to Metropolitan's construction work. Owners 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

INFED1-30-111TEA1  
(Temporary Easement)  
Thomas H. McPeters,  
et al, Trustees

That portion of a strip of land 15.00 feet wide in the northeast quarter of Section 19, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California lying within Parcel 1 conveyed in Quitclaim Deed to Thomas H. McPeters, et al, Trustees, recorded September 13, 1988 as Document No. 88-305548 of Official Records of said County, the sidelines of said strip lying 7.50 feet, measured at right angles on each side of the following described centerline:

Commencing at the most northeasterly corner of that parcel of land conveyed as Parcel 2 to East San Bernardino County Water District by Grant Deed recorded August 17, 1965 in Book 6454, page 916 of Official Records of said County, thence northwesterly along the northeasterly line of said Parcel 2 N 51° 00' 00" W 213.91 feet to the most northerly corner of said Parcel 2, thence S 67° 17' 30" W 85.03 feet to the Point of Beginning; thence N 14° 19' 31" E 109.40 feet; thence N 39° 40' 27" E 44.36 feet; thence N 65° 20' 43" E 28.15 feet; thence N 76° 25' 50" E 28.28 feet; thence S 83° 26' 25" E 25.62 feet; thence S 47° 59' 03" E 28.02 feet; thence S 30° 27' 52" E 52.01 feet; thence S 09° 03' 34" E 26.23 feet; thence S 16° 28' 55" W 25.98 feet; thence S 33° 39' 28" W 41.06 feet; thence S 00° 28' 54" W 31.86 feet; thence S 31° 50' 01" E 32.77 feet; thence S 66° 43' 14" E 22.09 feet; thence S 84° 21' 59" E 37.66 feet; thence N 80° 03' 15" E 39.07 feet, thence N 57° 16' 43" E 36.92 feet; thence N 29° 42' 00" E 45.36 feet; thence N 17° 59' 19" E 98.94 feet; thence N 03° 00' 00" E 164.61 feet; thence N 15° 47' 08" E 17.73 feet ; thence N 25° 30' 30" E 22.93 feet; thence N 36° 25' 54" E 84.54 feet; thence N 22° 24' 42" E 190.75 feet; thence N 20° 53' 06" E 24.05 feet; thence N 04° 57' 09" E 22.14 feet; thence N 04° 10' 45" W 52.75 feet; thence N 15° 16' 39" E 62.47 feet; thence N 00° 11' 44" E 112.34 feet; thence N 02° 57' 06" W 39.25 feet; thence N 47° 01' 17" W 33.58 feet; thence S 89° 59' 28" W 71.05 feet; thence N 65° 49' 10" W 33.76 feet; thence N 08° 51' 00" W 42.76 feet; thence N 25° 26' 13" E 74.28 feet; thence N 27° 39' 26" E 34.95 feet; thence N 41° 26' 21" E 33.69 feet; thence N 51° 17' 10" E 45.16 feet; thence N 29° 03' 36" E 47.04 feet; thence N 12° 48' 26" E 30.08 feet; thence N 01° 28' 58" W 49.59 feet; thence N 20° 23' 37" E 79.39 feet; thence N 36° 37' 24" E 68.21 feet; thence N 17° 28' 35" E 32.02 feet; thence N 24° 52' 47" W 29.65 feet; thence N 32° 52' 29" W 80.86 feet; thence



EXHIBIT A

INFED1-30-111TEA1  
(Temporary Easement)  
Thomas H. McPeters,  
et al, Trustees

N 28° 31' 21" W 68.49 feet; thence N 07° 05' 11" E 42.36 feet; thence N 40° 41' 21" E 54.42 feet;  
thence N 43° 05' 24" E 142.00 feet; thence N 46° 43' 24" E 94.93 feet; thence N 38° 29' 13" E  
63.99 feet; thence N 22° 00' 03" E 26.85 feet to the Point of Termination of said described centerline.

The sidelines of said 15.00 foot wide strip are to be lengthened or shortened to meet at angle points.

PREPARED UNDER MY SUPERVISION

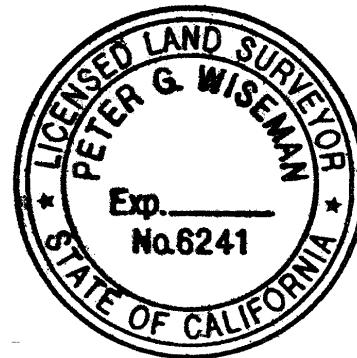
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Peter G. Wiseman, P.L.S. 6241

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Date

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July 20, 1998

PLEASE SEE HARD COPY FOR MAPS

(6 PAGES)

EXHIBIT A

INFED1-30-123TEA1  
(Temporary Easement)  
Persian International  
Enterprises, Inc.

That portion of a strip of land 15.00 feet wide in the northeast quarter of Section 19, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California lying within that parcel of land conveyed to Persian International Enterprises, Inc. by Grant Deed recorded April 27, 1978 in Book 9420, page 1 of Official Records of said County, the sidelines of said strip lying 7.50 feet, measured at right angles on each side of the following described centerline:

Commencing at the most northeasterly corner of that parcel of land conveyed as Parcel 2 to East San Bernardino County Water District by Grant Deed recorded August 17, 1965 in Book 6454, page 916 of Official Records of said County, thence northwesterly along the northeasterly line of said Parcel 2 N 51° 00' 00" W 213.91 feet to the most northerly corner of said Parcel 2, thence S 67° 17' 30" W 85.03 feet to the Point of Beginning; thence N 14° 19' 31" E 109.40 feet; thence N 39° 40' 27" E 44.36 feet; thence N 65° 20' 43" E 28.15 feet; thence N 76° 25' 50" E 28.28 feet; thence S 83° 26' 25" E 25.62 feet; thence S 47° 59' 03" E 28.02 feet; thence S 30° 27' 52" E 52.01 feet; thence S 09° 03' 34" E 26.23 feet; thence S 16° 28' 55" W 25.98 feet; thence S 33° 39' 28" W 41.06 feet; thence S 00° 28' 54" W 31.86 feet; thence S 31° 50' 01" E 32.77 feet; thence S 66° 43' 14" E 22.09 feet; thence S 84° 21' 59" E 37.66 feet; thence N 80° 03' 15" E 39.07 feet, thence N 57° 16' 43" E 36.92 feet; thence N 29° 42' 00" E 45.36 feet; thence N 17° 59' 19" E 98.94 feet; thence N 03° 00' 00" E 164.61 feet; thence N 15° 47' 08" E 17.73 feet ; thence N 25° 30' 30" E 22.93 feet; thence N 36° 25' 54" E 84.54 feet; thence N 22° 24' 42" E 190.75 feet; thence N 20° 53' 06" E 24.05 feet to the Point of Termination of above described centerline.

The sidelines of said 15.00 foot wide strip are to be lengthened or shortened to meet at angle points.

PREPARED UNDER MY SUPERVISION

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

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Date

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July 20, 1998

PLEASE SEE HARD COPY FOR MAP

(THREE MAPS)