

August 23, 1999

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

**From:** General Manager \_\_\_\_\_

**Submitted by:** Roy L. Wolfe \_\_\_\_\_  
 Manager, Corporate Resources Group

**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 1210-211-17, MWD’s Right-of-Way Parcel Number INFED1-28-150 and Owner’s Name Ruffen B. Kirkland.

**RECOMMENDATION**

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It is recommended that the Board of Directors adopt, by a two-thirds vote, a 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 to acquire the property.

**EXECUTIVE SUMMARY**

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Metropolitan will require in fee real property owned by Ruffen B. Kirkland 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 property 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 to acquire in fee 0.926 acres of a larger 10 acre vacant parcel owned by Ruffen B. Kirkland located in the City of Highland east of Church Street between Greenspot Road and Abbey Way. The property is required as an exchange well site for the relocation of Well 121 owned by East Valley Water District. The present Well 121 site sits squarely on the Inland Feeder Pipeline alignment and its acquisition and relocation is the subject of an agreement between East Valley and Metropolitan previously approved by the Boards of both agencies. Under that agreement, Metropolitan agreed to acquire a replacement site and to pay for a replacement well. The portion of the property to be acquired has been appraised at \$17,200.

At the Subcommittee’s meeting held June 29, 1999, staff conducted a hearing on a Resolution of Necessity seeking a recommendation on a fee take of 2.4 acres. At that hearing the

Subcommittee recommended that staff review the necessity for the 2.4 acres. Staff reviewed the necessity for the fee take and recommended to the Subcommittee a lesser fee take of 0.926 acres. East Valley Water District has agreed that the recommended take would be sufficient for its well relocation.

On August 4, 1999, a notice 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 August 24, 1999, as to the necessity for the Project and the taking of the property 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. A written summary of the hearing and the recommendation of the Subcommittee on Real Property and Asset Management as to whether the Board should adopt a resolution will be provided to the Board and the property owner, if he appears before the Subcommittee.

Transmitted herewith is the **form of resolution** declaring the necessity of the Project and the acquisition of the property 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.

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**Attachment 9-4A**

**Attachment 9-4A**

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 August 24, 1999, at the offices of The Metropolitan Water District of Southern California, located at 700 South Alameda Los Angeles, California, Room 2-145 at 11:30 a.m., a hearing was held by the Subcommittee on Real Property and Asset Management of the Board of Directors. Subcommittee Chairman Edward C. Little presided. The Subcommittee was called to order and a quorum was present.

Senior Deputy General Counsel Lauren Brainard advised the Subcommittee 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 Subcommittee 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 property to be acquired is necessary for the Project.

Brainard further advised the Subcommittee that an offer to purchase the property has been made to the owner in accordance with the law. The owner was provided with written notices of the hearing, but no request to appear was received and no appearance was made. 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 take as a 0.926 fee needed as a substitute property for relocation of a well site for East Valley Water District. In February, the Board approved an exchange arrangement where by Metropolitan would relocate a well owned by East Valley Water District. Mr. Brainard further advised that, pursuant to this Subcommittee's recommendation, what was originally a 2.4-acre take was reduced to 0.926 acres and is valued at \$17,200. Mr. Brainard further advised that staff has been in contact with Mr. Kirkland and there is a possibility this will settle. Mr. Brainard advised the Subcommittee that the southern portion of the 0.926 acres was needed to assure access from Abbey Way to the well site, which is the only portion suitable for the well relocation, the property to the east being sensitive habitat. All other potential sites were either technically or financially not feasible.

The Subcommittee 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 real property to be acquired for the public use set forth in section 1, above, consists of a parcel of land 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 fee property 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 property described in **Exhibits A and B** attached hereto is necessary for the proposed Project because it is required to be used as "substitute property" for "necessary property" pursuant to Code of Civil Procedure sections 1240.320 and 1240.333 as defined at Code of Civil Procedure section 1240.310.

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 owner(s) 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 property 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 property 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 take 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 14th day of September, 1999, 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**

**The following page is an attachment to**

**Board Letter 9-4**

EXHIBIT A

INFED1-28-150  
(Grant Deed)  
Ruffen B. Kirkland

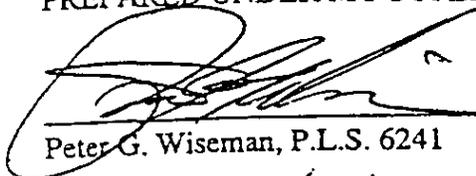
All that portion of the east 20 acres of the southeast quarter of the southwest quarter (SE1/4SW1/4) of Section 2, Township 1 South, Range 3 West, San Bernardino Meridian, in the City of Highland, County of San Bernardino, State of California, described as follows:

Beginning at a point on the southerly line of said SE1/4SW1/4, said point being N 89° 33' 29" W 105.88 feet from the southeast corner of said SE1/4SW1/4 as marked by a 2" iron pipe with brass cap, 2" above surface stamped "T1S - R3W- ¼ S2/S11 L.S. 3018" as shown on Record of Survey filed in Book 105, pages 32 through 35, inclusive, of Record of Surveys, records of said County; thence continuing along said southerly line N 89° 33' 29" W 185.28 feet; thence N 00° 08' 37" E 157.48 feet; thence N 01° 55' 40" W 57.89 feet; thence parallel with the southerly line of said SE1/4SW1/4 S 89° 33' 29" E 191.00 feet; thence parallel with the easterly line of said east 20 acres S 01° 06' 29" W 215.33 feet to the point of beginning.

ALL AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART THEREOF.

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION

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

Date

7/12/99



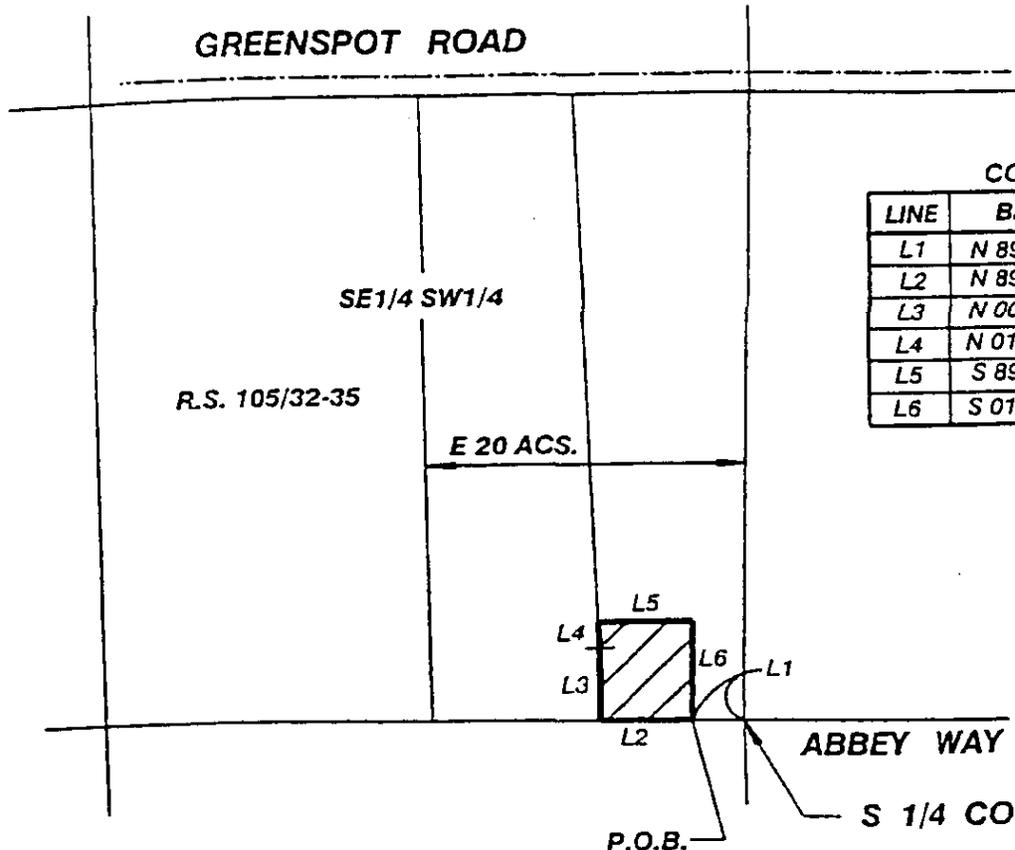
**Exhibit B**

**The following page is an attachment to**

**Board Letter 9-4**

# EXHIBIT B

"THIS EXHIBIT IS TO BE ATTACHED TO THE LEGAL DESCRIPTION"  
 POR. SE1/4SW1/4 SEC. 2, T. 1 S., R. 3 W., SBM  
 CITY OF HIGHLAND  
 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



**COURSE TABLE**

LINE	BEARING	DISTANCE
L1	N 89° 33' 29" W	105.88'
L2	N 89° 33' 29" W	185.28'
L3	N 00° 08' 37" E	157.48'
L4	N 01° 55' 40" W	57.89'
L5	S 89° 33' 29" E	191.00'
L6	S 01° 06' 29" W	215.33'



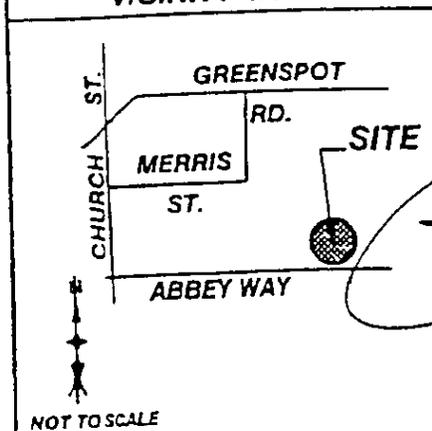
NOT TO SCALE

**LEGEND**



GRANT DEED  
 INFED1-28-150  
 (0.926 AC.)

**VICINITY MAP**



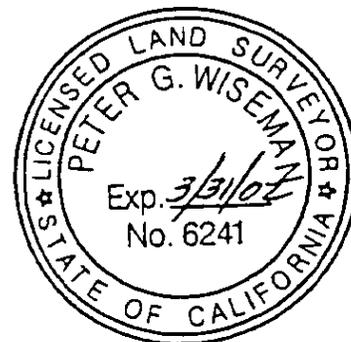
NOT TO SCALE

**PREPARED UNDER  
 MY SUPERVISION**

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

DATE

*7/12/99*



**THE METROPOLITAN WATER DISTRICT  
 OF SOUTHERN CALIFORNIA**

**INLAND FEEDER  
 GRANT DEED  
 RUFFEN B. KIRKLAND  
 TO  
 MWD  
 INFED1-28-150**