

- **Board of Directors**
Legal and Human Resources Committee

December 9, 2008 Board Meeting

8-7

Subject

Hearing on adoption of resolution of necessity directing the General Counsel to condemn an interest in real property required for the Inland Feeder Project in San Bernardino County, identified as a portion of San Bernardino County Assessor's Parcel Nos. 0270-061-11, -12, Metropolitan's Parcel No. INFED1-31-100TEA2.1, and owner's name, Campus Crusade for Christ, Inc. [**Two-thirds vote required**]

Description

The Campus Crusade Property and Inland Feeder

Campus Crusade for Christ owns property totaling approximately 1,825 acres stretching from Waterman Canyon to Strawberry Canyon in the San Bernardino Mountains. Dr. William Bright purchased the property in 1962 to use as the headquarters for his Campus Crusade for Christ organization. The property was used for many years by Campus Crusade, including a school of theology, video production facilities, religious conferences and retreats.

In 1992, Metropolitan opened negotiations with Campus Crusade to acquire property for the Inland Feeder Project. The project cuts through the San Bernardino Mountains in two tunnels (Arrowhead West and Arrowhead East) connected by a pipeline across Waterman Canyon and Strawberry Canyon. The east portal of the Arrowhead West tunnel is located on property owned by Campus Crusade and Metropolitan has a pending eminent domain action to acquire 10.4 acres of land for this portal site, as well as easements for the pipeline connecting the two tunnels. Construction of the pipeline is complete, but the tunnel construction is ongoing.

The Temporary Construction Easement

Metropolitan is using a temporary construction easement covering 7.352 acres in connection with the Arrowhead West Tunnel construction. The area is used for construction equipment and materials, but also for the stockpiling of rock and soil material excavated from the tunnel and portal. Following completion of the tunnel, the stockpiled material will be used to backfill the portal site and the easement area will be restored to its pre-construction topography.

Metropolitan was granted a temporary easement over this property through December 31, 2008, by a voluntary conveyance from Campus Crusade. However, the need for the property will continue beyond this date as the tunnel construction continues. Metropolitan's staff has determined that a further temporary easement for the period January 1, 2009 through December 31, 2012, is necessary to ensure that the property is available for continued use in connection with the tunnel construction.

Prior to filing an eminent domain action, Metropolitan's Board must adopt, by a two-thirds vote of all its members, a resolution of necessity stating: (1) the use for which the property is to be taken; (2) the extent of the property to be taken; (3) the project is necessary; (4) the project is in the public interest; (5) the project is located in the manner most compatible with the greatest public good and the least private injury; (6) the property to be taken is necessary for the project; and (7) an offer to purchase the property for the full appraised value has been made to the owner. The proposed resolution of necessity for the subject property is [Attachment 1](#). A description of the easements and map of the property to be encumbered is [Attachment 2](#) to this letter.

The owner of the subject property was served on November 6, 2008 with a notice that it may appear before the Board of Directors to be heard on the matter of adopting the resolution of necessity.

Policy

Metropolitan Water District Administrative Code Section 8225: Adoption of Resolutions of Necessity
California Code of Civil Procedure, Title 7, Chapter 4, Article 2: Resolution of Necessity

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The environmental effects of the project were evaluated in the Inland Feeder Project Final Environmental Impact Report and Environmental Assessment (FEIR/EA), which was certified by the Board in February 1993. The Board also approved the Findings of Fact, the Mitigation Monitoring and Reporting Program, the Statement of Overriding Considerations, and the project itself. Subsequent to these actions, additional environmental documentation was prepared to address modifications to the project, including Addenda Nos. 1 through 7 and a Supplemental EIR. The present proposed board action is solely based on condemning property to extend an existing temporary easement through 2012 and not on any changes to the project itself. Hence, the environmental documents and the previous actions taken by the Board fully comply with CEQA and the State CEQA Guidelines and, as such, no further CEQA documentation is necessary for the Board to act on the proposed action.

The CEQA determination is: Determine that the proposed action has been previously addressed in the 1993 certified FEIR/EA, along with the subsequent environmental documentation, and that no further environmental analysis or documentation is required.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and the resolution of necessity directing the General Counsel to commence an eminent domain proceeding to acquire Metropolitan's Parcel No. INFED1-31-100TEA2.1.

Fiscal Impact: Acquisition of the temporary easement will require the expenditure of an unknown amount in budgeted and previously appropriated funds, with the amount to be determined by the court through the eminent domain proceedings.

Business Analysis: Acquisition of the temporary construction easement is required to complete the construction of the Arrowhead West Tunnel for the Inland Feeder Project.

Option #2

Do not adopt the resolution of necessity, but continue negotiations for a voluntary acquisition of the easement.

Fiscal Impact: Unknown costs in excess of the appraised value

Business Analysis: Under this option, significantly higher costs would be incurred to relocate the construction work from this property or to compensate the property owner in an expected action for inverse condemnation.

Staff Recommendation

Option #1



for Sydney B. Bennion
Karen L. Tachiki
General Counsel

11/6/2008

Date



Jeffrey Kightlinger
General Manager

11/24/2008

Date

Attachment 1 – Resolution of Necessity

Attachment 2 – Legal Description and Map

BLA #6382

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)**

Parcel No. INFED1-31-100TEA2.1

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 property situated in the County of San Bernardino is necessary therefor.

Section 2. The property to be acquired for the public use set forth in section 1, above, consists of the interest in the parcel of land described in the 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 in the property described in Exhibits A and B attached, by proceedings in eminent domain as authorized by section 141 of the Metropolitan Water District Act (Stats. 1969, Ch. 209, as amended).

Section 4. The District's Board hereby finds and determines that the Inland Feeder 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 is necessary for the Inland Feeder Project.

Section 6. The District's Board hereby finds and determines that the temporary easement is to be acquired for the construction of a subsurface waterline and related appurtenances, and therefore no offer is required to have been made to the owner of record of the property pursuant to Government Code section 7267. However, the District's Board further finds and determines that an offer meeting the requirements of Government Code section 7267.2 has been made to the owner 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. She is authorized to take such actions and steps as she 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 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 9th day of December, 2008, 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.

Board Executive Secretary
The Metropolitan Water District of
Southern California

LEGAL DESCRIPTION AND MAP

EXHIBIT A

1. An exclusive temporary easement to use the property in the County of San Bernardino, State of California, described in this Exhibit A, and shown on Exhibit B, for the construction of a capital improvement project, a water transmission pipeline and related facilities, by The Metropolitan Water District of Southern California (Metropolitan), on land other than the property described herein.

Reasonable access to the fee owner's remaining property across this temporary easement shall be maintained by Metropolitan at all times during the term of this easement.

The term of the temporary easement shall commence on January 1, 2009 and shall extend through December 31, 2012. At the expiration of the temporary easement, Metropolitan shall restore the easement area to a condition as near as practicable to the condition that existed immediately prior to Metropolitan's first use of the easement area. Metropolitan shall not be required to restore vegetation to the pre-existing condition, but shall establish vegetation for erosion control on the property at the termination of this temporary easement in accordance with the Environmental Impact Report and Metropolitan's specifications.

EXHIBIT A

INFED1-31-100TEA2.1
(Temporary Easement)
Campus Crusade for Christ
a non profit California Corporation
to MWD

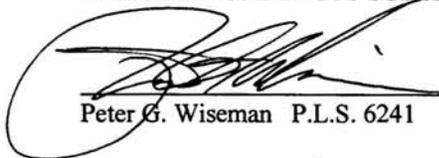
All that portion of Section 11, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Commencing at the southeast corner of said Section 11, said point being a 2" iron pipe with nail 15" above surface, as shown on Amended Record of Survey filed in Book 96, pages 14 through 18, inclusive, of Record of Surveys, in the office of the County Recorder of said County; thence along the south line of said Section 11, S 89° 26' 17" W 1391.56 feet; thence N 00° 18' 30" W 402.29 feet; thence N 10° 47' 46" E 489.11 feet; thence N 27° 20' 02" W 375.94 feet; thence N 52° 34' 40" W 688.93 feet; thence N 61° 34' 03" W 882.47 feet to the POINT OF BEGINNING; thence continuing N 61° 34' 03" W 181.71 feet; thence N 23° 44' 35" W 522.68 feet; thence N 02° 57' 08" E 751.37 feet; thence S 26° 08' 33" E 1002.31 feet; thence S 14° 50' 10" W 429.89 feet to the POINT OF BEGINNING.

All as shown on Exhibit "B" attached hereto and made a part hereof.

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION


Peter G. Wiseman P.L.S. 6241

05/14/03
Date

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May 13, 2003

