



3.1

DEPARTMENT OF UTILITIES

CITY OF SACRAMENTO CALIFORNIA

1395 35th AVENUE SACRAMENTO, CA 95822-2911

ENGINEERING SERVICES DIVISION

August 28, 2002

PH 916-264-1400

City Council Sacramento, California

CONTINUED FROM 9/10/02 TO 9/24/02

WITHDRAWN SEP 24 2002 BY THE CITY COUNCIL OFFICE OF THE CITY CLERK

Honorable Members in Session:

SUBJECT: HEARING ON RESOLUTION OF NECESSITY TO ACQUIRE SEWER, WATER AND DRAINAGE LINE EASEMENTS ON PORTIONS OF APNs: 001-0210-039 & 040 FOR THE SACRAMENTO RIVER WATER TREATMENT PLANT SEWER EXTENSION PROJECT (PN: ZH61); TWO-THIRDS VOTE REQUIRED

LOCATION AND COUNCIL DISTRICT: 325 North 5th Street in Council District 1

RECOMMENDATION:

This report recommends that City Council:

- A. Conduct a hearing on Resolution of Necessity and make the necessary findings to acquire two (2) sewer, water and drainage line easements on portions of APNs: 001-0210-039 & 040, located at 325 North 5th Street.
B. Adopt the attached Resolution of Necessity for these acquisitions.

CONTACT PERSONS: Gary Reents, Engineering Division Manager, 264-1433 Candace McGahan, Supervising Engineer, 264-1416 Rhonda R. Lake, Real Property Agent, 264-7902

FOR COUNCIL MEETING OF: September 10, 2002

SUMMARY:

The purpose of this hearing is to receive public testimony and take action on the Resolution of Necessity to acquire certain interests in real property required for construction of the Sacramento River Water Treatment Plant (SRTWP) Sewer Extension Project. An offer of just compensation has been made to the property owners. To insure that the acquisition process does not delay



CITY OF SACRAMENTO DEPARTMENT OF UTILITIES

City Council
August 22, 2002
Sacramento River Water Treatment Plant Sewer Extension Project (PN: ZH61)

the project schedule, it is necessary to obtain a Resolution of Necessity to initiate eminent domain proceedings. In the interim, staff will continue to make every effort to reach agreement with the property owners. Two-thirds vote by Council is required to for adoption of this resolution.

COMMITTEE/COMMISSION ACTION: None.

BACKGROUND INFORMATION:

The proposed acquisition is associated with the Sacramento River Water Treatment Plant Expansion Project, currently underway to upgrade plant facilities and capacity. The treatment plant is located at 101 Bercut Drive. The project requires the installation of approximately 220 lineal feet of 8-inch gravity sewer main and approximately 2,950 lineal feet of 8-inch sewer force main. The project will transport sewage from new buildings associated with the expansion via the proposed 8-inch gravity main. The proposed 8-inch force main will carry the sludge lagoons' decanted water. The force main will connect to an existing sewer line located in Richards Boulevard.

The proposed acquisition easements are shown on the attached plat as Parcel 1 and Parcel 2. The City has an existing utility and "highway" easement on a portion of the subject property, conveyed by Southern Pacific Company in 1962; however the indenture does not include the right to construct a new pipeline. City must now acquire the right to do so.

The acquisition easements were appraised by an independent fee appraiser for Six Thousand Five Hundred Dollars (\$6,500) and an offer of just compensation was made to the property owners in accordance with Section 7267.2 of the Government Code. In order for the project to proceed in a timely manner, staff recommends that Council adopt the Resolution of Necessity to use the power of eminent domain to acquire the easements should negotiations fail.

FINANCIAL CONSIDERATIONS:

As of August 20, 2002, the unobligated balance available in the Sewer Main SRWTP-Richards Project (413-500-ZH61) is \$83,723. There are sufficient funds available in ZH61 to acquire the acquisition easements.

ENVIRONMENTAL CONSIDERATIONS:

City's Office of Environmental Affairs has determined that the project is exempt under CEQA Section 21080.21, and CEQA Guidelines Section Numbers 15303(d) and 15301(b) since the

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project involves acquiring an easement to install limited numbers of new, small sewage connections and an easement for the continued operation/maintenance of an existing City pipeline.

POLICY CONSIDERATIONS:

This report's recommendation is consistent with the City's Strategic Plan Goals of enhancing and preserving the neighborhoods and supporting the economic vitality of the area.

ESBD CONSIDERATIONS:

None. No goods or services are being purchased as part of this action.

Respectfully submitted,



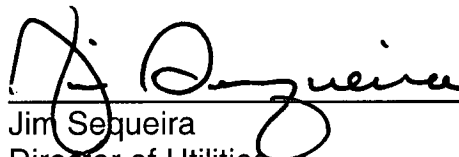
Gary A. Reents
Engineering Services Manager

RECOMMENDATION APPROVED:



Robert P. Thomas
City Manager

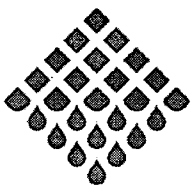
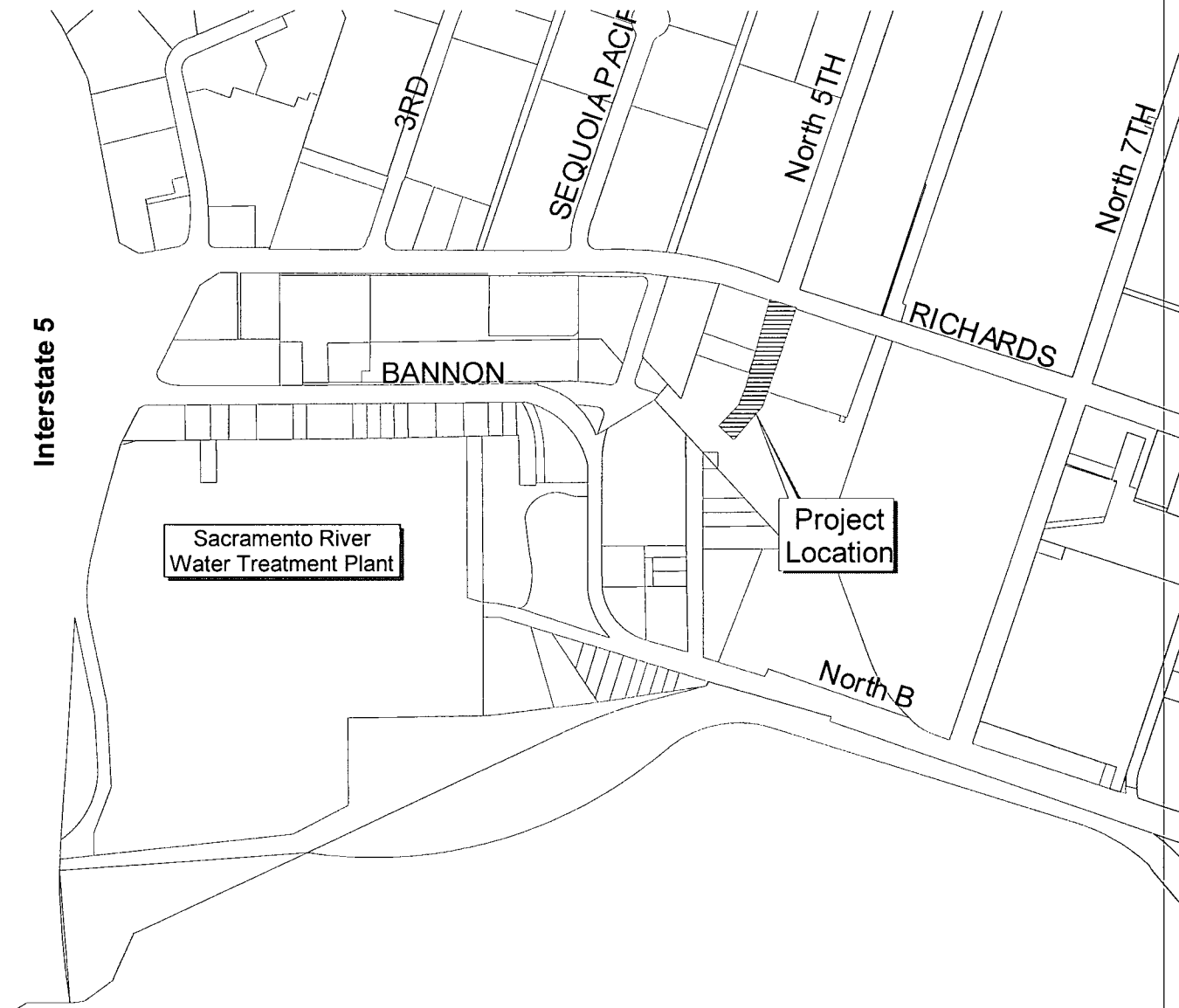
APPROVED:



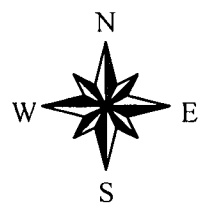
Jim Sequeira
Director of Utilities

Exhibit 1

SRWTP SEWER EXTENSION (PN: ZH61)



Map Prepared By
City of Sacramento
Department of Utilities
Aug. 2002



RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL PROPERTY INTERESTS BY EMINENT DOMAIN FOR THE SACRAMENTO RIVER WATER TREATMENT PLANT SEWER EXTENSION PROJECT (PN: ZH61)

BE IT RESOLVED BY THE SACRAMENTO CITY COUNCIL:

1. That the City of Sacramento intends to acquire through the exercise of the power of eminent domain the real property interests hereinafter identified as the "Subject Parcel", more particularly described in Paragraph 7.
2. That the Subject Parcel is to be taken for, or in connection with, the Sacramento River Water Treatment Plant Extension Project.
3. That the statute authorizing the City of Sacramento to acquire the Subject Parcel for the above-mentioned public purpose is Government Code, Section 37350.5.
4. That the Subject Parcel is located along North 5th Street between Richards Boulevard and North B Street in Sacramento, California and is more specifically described in Exhibits "A" and "B".
5. That the City Council declares that it has found and determined each of the following:
 - a. The public interest and necessity requires the easement acquisitions for the project known as the Sacramento River Water Treatment Plant Sewer Extension Project.
 - b. The project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
 - c. The Subject parcel is needed for the project.
 - d. The offer required under Section 7267.2 of the Government Code has been made to the owners or representatives of the owners of record.
6. That the City of Sacramento, a municipal corporation, its appropriate officers, employees and agents, are hereby authorized and empowered to:

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

- a. Acquire in the name of the City of Sacramento, a municipal corporation, the Subject Parcel.
- b. Prepare, file and prosecute in the appropriate court, such proceedings in eminent domain as necessary for the acquisition of the Subject Parcel.
- c. Deposit the probable amount of just compensation, as fixed by the Director of Public Works in accordance with law, with the Clerk of the appropriate court and to make application to said court for an order permitting the City of Sacramento to take immediate possession and use of the Subject Parcel.

7. That the City, by this resolution is authorized to acquire easements in certain real property situated in the County of Sacramento, State of California and described as follows:

SEE ATTACHED LEGAL DESCRIPTIONS MARKED EXHIBIT "A" AND DIAGRAMMED IN THE CORRESPONDING ATTACHMENT EXHIBIT "B".

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

EXHIBIT A

LEGAL DESCRIPTION Sewer, Water, and Drainage Easement

All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

All that portion of that certain 103.799 acre parcel of land described in deed dated April 9, 1928, from English Estate Company to Southern Pacific Company, recorded April 19, 1928, in Book 181 of Official Records, Page 257, Sacramento County Records, more particularly described as follows:

PARCEL 1:

A strip of land twenty (20.00) feet in width, the center line of which is described as follows:

Beginning at a point on the southerly line of Richards Boulevard from which the southwesterly corner of that certain 3.096 acre parcel of land described in indenture dated July 5, 1950, between Southern Pacific Company and County of Sacramento, recorded July 26, 1950, in Book 2389, Page 326, Official Records of Sacramento County bears the following two (2) courses: 1) North $71^{\circ} 40' 24''$ West 50.80 feet, 2) North $18^{\circ} 26' 57''$ East 80.00 feet; thence South $18^{\circ} 26' 57''$ West 464.53 feet; thence South $47^{\circ} 20' 42''$ West 84.60 feet to the southwesterly line of that certain parcel of land described in deed dated May 11, 1962, from Southern Pacific Company to City of Sacramento, recorded July 2, 1962, as Parcel 1 in Book 4472, Page 516, Official Records of Sacramento County, containing 10,982.60 square feet more or less.

The side lines of said strip of land shall begin on the southerly line of said Richards Boulevard and end on the southwesterly line of said deed dated May 11, 1962.

PARCEL 2:

A strip of land twenty-eight and one-half (28.50) feet in width, the center line of which is described as follows:

Beginning at a point on the southwesterly line of said deed dated May 11, 1962, from which the southwesterly terminus of the line described as South $47^{\circ} 20' 42''$ West 84.60 feet as found in the above Parcel 1 bears North $42^{\circ} 40' 01''$ West 2.92 feet; thence South $47^{\circ} 24' 59''$ West 85.00 feet to the southwesterly line of said 103.799 acre parcel of land, containing 2422.50 square feet more or less.

The side lines of said strip of land shall begin on the southwesterly line of said deed dated May 11, 1962 and end on the southwesterly line of said deed dated April 9, 1928.

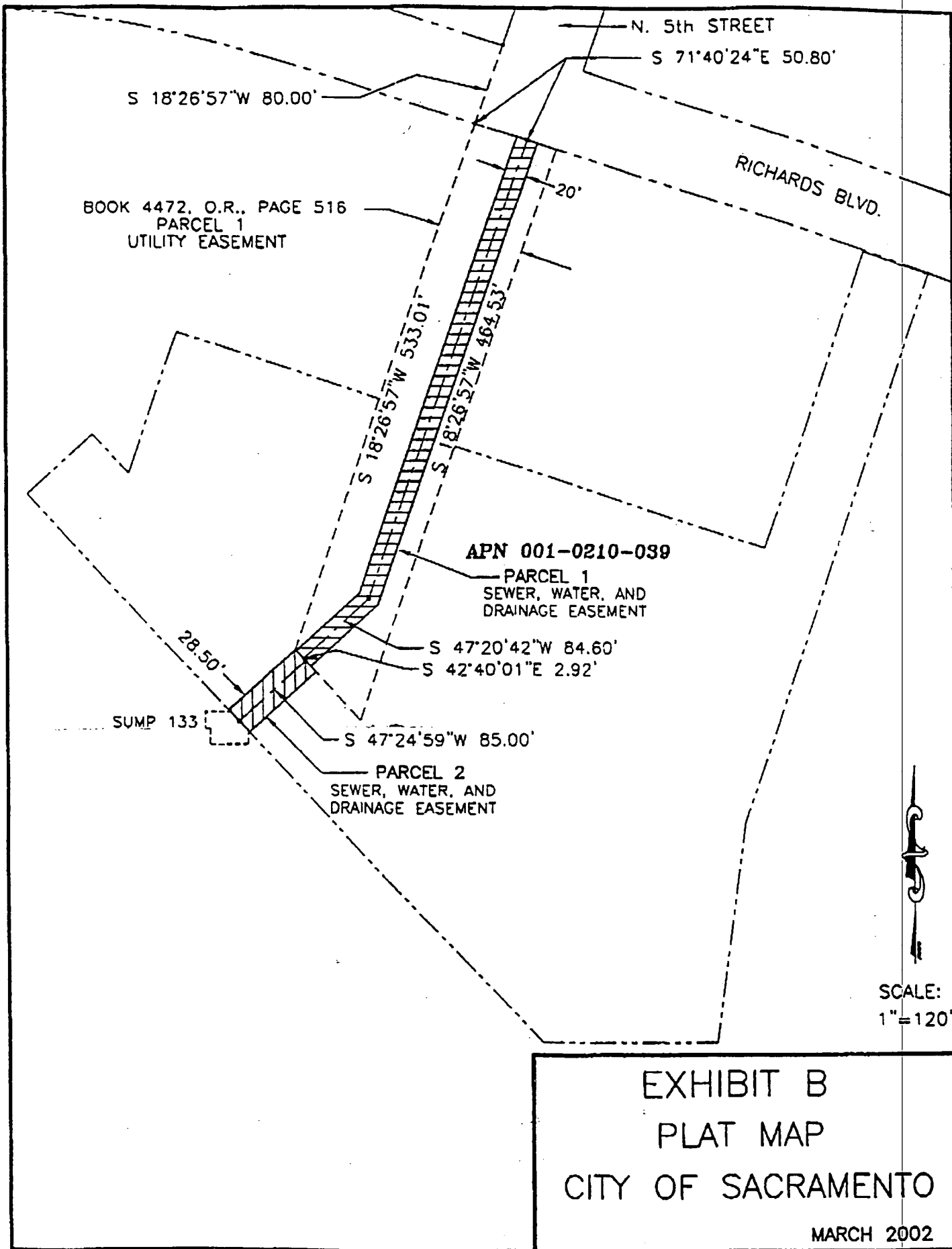


EXHIBIT B
 PLAT MAP
 CITY OF SACRAMENTO
 MARCH 2002

Item 3.2

September 3, 2002

City Council of Sacramento
City Clerk
915 I Street, Room 300
Sacramento, CA 95814-2700

To: City Clerk
From: Don Rosa

RE: Resolution of Necessity
APN: 225-0220-014 & 077
RES FILE: ACQ-01-14-00

I hereby request to be heard on September 10, 2002 at the City Council Meeting to be held at 2:00pm in the City Council Chambers.

Attached is a statement of the conditions that are pertinent to the property. The statement outlines my questionable concerns.

I am including my phone and fax number and would appreciate being notified of any change in the agenda or hearing date.

Thank you.



Don Rosa

(916) 682-6961
FAX (916) 681-7178

Cc: Gary Livaich
Desmond, Nolan, Liviach & Cunningham

FAX INFORMATION COVER PAGE

DATE: September 5, 2002

NO. PAGES: 4 (incl. Cover page)

TO: City Clerk
City of Sacramento

FAX NUMBER: (916) 264-7672

FROM: Don Rosa

FAX NUMBER: 916-681-7178

PHONE NUMBER: 916-682-6961

RE: Resolution of Necessity
APN: 225-0220-014 & 077
RES FILE: ACQ-01-14-00

Request to Heard On Sept 10, 2002

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September 3, 2002

TO: Sacramento City Council
915 I Street
Sacramento, CA 95814-2700

From: Don Rosa
Property Owner

RE: San Juan Road Drainage Project (PN: P433)
Hearing Date: September 10, 2002.
RES File: ACQ-01-14-00
APN: 225-0220-14 & 07

Members of the City Council,

I am a third generation native of the Natomas area. My family has been farming in Natomas for well over 70 years. We are taxpayers and consider ourselves solid members of the community. We are opposed to the City Council adopting this resolution of eminent domain for several reasons. It is a "take" from a county property owner to benefit the property developer on the city limit side of San Juan Road.

The property in question is located in the County of Sacramento, not the City, south of San Juan Road and east of El Centro Road. The housing development by River West Investments that has prompted this action is north of San Juan Road in the City of Sacramento.

This action is based on the premise that the road must be widened, and in order to do so the existing Reclamation District 1000 drainage ditch must be relocated.

According to the letter from the City of Sacramento Real Estate Services, the provisions of the California Code of Civil Procedure, Section 1240.030, provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following conditions are met:

a) The public interest and necessity require the project.

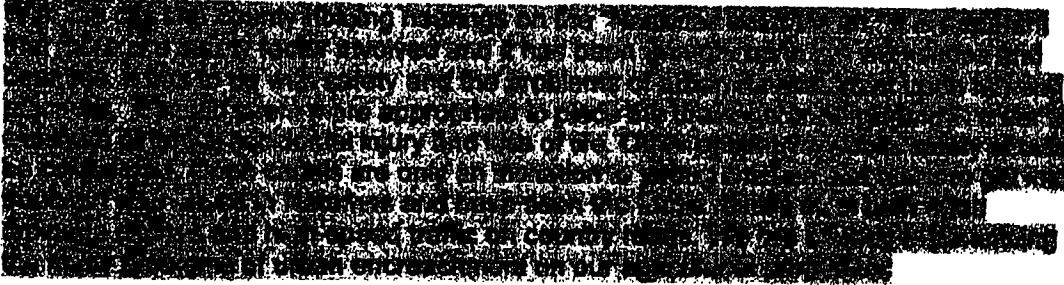
I challenge this necessity. The housing development is fully built out, and has been sold out for over one year. The road has been repaved and appears to be handling the traffic with no problem. Remember, there is no development south of San Juan, either to the west or east. There are other streets into the project that appear to be the main arteries.

b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

I challenge this condition with the utmost concern. The developer was allowed to build his houses right up to the shoulder of San Juan Road. His dedication of property was minimal. Was this done to increase the developer's profits, increase the city's tax base, or was it an oversight by planning? At any rate, this is causing us a great amount

of private injury, not only in the loss of farmable land but also in reducing the size of the parcels. It is also taking approximately 1½ acres, or several thousand feet of frontage along San Juan Road.

We lost over 5 acres for the city's flood control project four years ago under the threat of eminent domain on this very property. In addition, we have had property taken on two other occasions so both the airport could be protected and city development could proceed from floodplain protection. We were not involved in the planning of this development and street requirements imposed by the city and/or its staff. It seems to me this action is being taken to keep the developer from having the "least private injury," not us!!



c) The property sought to be acquired is necessary for the project.

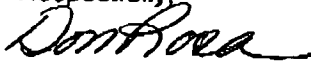
It has already been pointed out above that this project is not necessary until further development occurs south of San Juan Road. This property is located in the county. The city should have required the additional property to come from within the city limits, or the developers, side of the road.

There is a flaw in our local planning. At no time were we ever consulted before the housing project was approved. But I understand this was a contingency of approval. Why has it taken over 3 years to finally get around to it? Perhaps, it is just not necessary? I am tiring quickly of being a political pawn in Natomas. The harassment to us just never seems to end.

There are also significant consequences with the temporary construction easement. Not only is the area too large, but also the resolution does not allow for property restoration, crop damage, or a method of permanently identifying the easement line. It does not address timing for cropping plans. The use of the irrigation pump, which pumps water from the canal, is essential to our livelihood. There is also an issue with egress and ingress to the permanent easement area and a valuation issue, which is not part of this discussion.

Please give serious consideration when voting on this resolution based on the information outlined above.

Respectfully,



Don Rosa

Cc: Gary Liviach (Desmond, Nolan, Livaich & Cunningham)