

ENERGY AND ENVIRONMENT COMMITTEE REPORT and ORDINANCE relative to the acquisition by eminent domain of six parcels of real property adjacent to the City limits in and adjacent to the northeast area of the San Fernando Valley having APNs 2581-001-042, 2581-001-043, 2581-001-0092581-001-010, 2603-002-006, and 2603-002-007, all located in Los Angeles County, to protect the First and Second Los Angeles Aqueducts.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. FIND that approval of the ordinance is exempt from CEQA review under the State CEQA Guidelines 15061(b)(3) because the acquisition of the Property, as described in the July 26, 2013 City Attorney and June 24, 2013 Board of Water and Power Commissioners (Board) reports and attached to the Council file, for the protection of the aqueducts will not lead to any development and the property will remain undeveloped after acquisition and, therefore, it can be seen with certainty that there is no possibility that the protection of the of the aqueducts may have a significant effect on the environment; and further DIRECT the Los Angeles Department of Water and Power (LADWP) to file a Notice of Exemption.
2. DIRECT the LADWP to take all actions necessary to authorize payment for the these acquisitions, as described in the July 26, 2013 City Attorney and June 24, 2013 Board reports and attached to the Council file.
3. AUTHORIZE the City Attorney to make the necessary deposit of probably just compensation per appraisals of the property, currently in the amount of \$808,000.00 for the benefit of the Owners of the Property, and to seek orders from the Court to obtain possession of the property prior to that.
4. AUTHORIZE the LADWP to continue to attempt to acquire the Property, as described in the July 26, 2013 City Attorney and June 24, 2013 Board reports and attached to the Council file, and all interests in the properties, via negotiated purchases, and if successful, to execute all documents necessary to accomplish the transfer of those properties.
5. PRESENT and ADOPT the accompanying Condemnation Ordinance (Resolution of Necessity) finding that the public interest and necessity required the acquisition by eminent domain of six parcels of real property adjacent to the City limits in and adjacent to the northeast area of the San Fernando Valley having APNs 2581-001-042, 2581-001-043, 2581-001-0092581-001-010, 2603-002-006, and 2603-002-007, all located in Los Angeles County.
6. Concur with the Board of Water and Power Commissioner's action of May 23, 2013, Resolution No. 013-019, making findings and authorizing actions in connection with the acquisition of acquisition by eminent domain of six parcels of real property adjacent to the City limits in and adjacent to the northeast area of the San Fernando Valley having APNs 2581-001-042, 2581-001-043, 2581-001-0092581-001-010, 2603-002-006, and 2603-002-007, all located in Los Angeles County, to protect the First and Second Los Angeles Aqueducts.

Fiscal Impact Statement: The City Administrative Officer (CAO) reports that approval of this request will not impact the General Fund. The one-time cost to the Los Angeles Department of Water and Power (LADWP) is currently estimated at \$813,000. The LADWP Financial Policies are not applicable.

Community Impact Statement: None submitted.

**Council may recess to Closed Session pursuant to Government Code Sections 54956.9(d)(1) to confer with its legal counsel relative to the above matter and in connection with the case entitled City of Los Angeles Department of Water and Power v. Nicholas L. Pavich, Jr., Indian Ridge LLC and LMW78 LLC, and related cross complaint, Los Angeles Superior Court Case No. Bs135629 [This lawsuit seeks to protect the First and Second Los Angeles Aqueducts through several causes of action including injunctive relief, trespass, and Building and Safety code enforcement; Cross Complainants lawsuit seeks crossing rights over the Second Los Angeles Aqueduct and seeks to remove the First Los Angeles Aqueduct from its current location] .**

Summary:

On August 20, your Committee considered August 19, 2013 CAO, July 26, 2013 City Attorney and June 24, 2013 Board reports, Resolution No. 013-319, and Condemnation Ordinance relative to the acquisition by eminent domain of six parcels of real property adjacent to the City limits in and adjacent to the northeast area of the San Fernando Valley having APNs 2581-001-042, 2581-001-043, 2581-001-0092581-001-010, 2603-002-006, and 2603-002-007, all located in Los Angeles County, to protect the First and Second Los Angeles Aqueducts. According to the CAO, the First Los Angeles Aqueduct has provided over 200 million gallons per day of drinking water to City residents and LADWP ratepayers. Typically, it supplies up to 30% of overall City water demands and the Aqueduct was completed around 1913. Since the First Los Angeles Aqueduct was constructed, the population of the City has increased tenfold to become the second largest city in the United States. The Second Los Angeles Aqueduct, completed in 1970, has also provided over 200 million gallons per day of partially treated drinking water to City residents and LADWP ratepayers. Typically, this Aqueduct supplies up to 20% of overall City water demands.

The Second Los Angeles Aqueduct has become an important backup during repairs on the older, First Los Angeles Aqueduct. During periods of low water demand in the City, the Second Los Angeles Aqueduct can supply the City with water while the First is removed from service for maintenance and repair. It should be noted that the First Los Angeles Aqueduct, in particular, exists as an unreinforced tunnel as shallow as two or three feet below the surface on the southerly side of these parcels and is extremely vulnerable to damage. The tunnel is temporarily protected from the current property owner's construction traffic by k-rails. The status quo carries unacceptable risks and liability for DWP of failure of the Aqueducts. There is not only an interest, but a necessity to permanently protect the Aqueducts in this region.

The LADWP states that the relocation of either Aqueduct to avoid these six parcels of Property would consume tens of millions of public ratepayer dollars, take years of effort, very likely interrupt thousands of commuters during construction, and far exceed the cost of acquisition of the Property. Based on the above, the relocation of the Aqueducts is infeasible; the Property must be acquired for the permanent protection and maintenance of the Aqueducts and to secure the City's water supply. Property Acquisition Indian Ridge LLC and LMW78 LLC (Owners) own six contiguous parcels through or alongside the two Aqueducts as they cross into Los Angeles City limits. The Owners have engaged in uses of the Property that are incompatible with and a danger to, the Aqueducts, including, among other things, extensive grading over and adjacent to the First and Second Los Angeles Aqueducts; driving large construction and grading equipment directly over the First and Second Los Angeles Aqueducts; engaging in these activities without obtaining any of the required permits; and

ignoring LADWP requests to cease these activities that jeopardize the Aqueducts.

After further consideration, the Committee moved to recommend approval of the LADWP's request as detailed in the CAO, Board, and City Attorney reports and detailed in the above recommendations. This matter is now forwarded to Council for its consideration.

Respectfully Submitted,

#### ENERGY AND ENVIRONMENT COMMITTEE

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
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FUENTES:	YES
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BLUMFIELD:	YES
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LABONGE:	YES
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HUIZAR:	ABSENT
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KORETZ:	YES
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**-NOT OFFICIAL UNTIL COUNCIL ACTS-**