

DEPARTMENT: Public Works

By: Bruce A. Atkinson

Phone: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes No)

1. Adopt the attached Resolution of Necessity for the acquisition of land (portions of APN 012-040-019 and APN 012-040-021) necessary for the Airport Construction Project (AIP Project No. 3-06-0147-03; CAAP Project No. MPA-1-96-1); and if adopted:
2. Direct County Counsel to immediately initiate the processes necessary to commence condemnation action on the required parcels.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Airport Construction Project has been in the planning stages since 1991. The project is budgeted, and the first phase of construction is underway. On September 15, 1998, the Board directed that this recommended action be brought forward. See the attached STAFF REPORT for further background information.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1. Adopt the Resolution of Necessity, but continue negotiations, instead of commencing condemnation actions at this time. If a settlement cannot be reached, the Board could later direct counsel to commence condemnation actions. Portions of the Project would have to be postponed for an undetermined amount of time, probably until next summer.
2. Do not adopt the Resolution of Necessity and continue negotiations. The Project would then have to be postponed until either a settlement or another impasse was reached.
3. Do not adopt the Resolution of Necessity and cancel that portion of the Project that affects these properties.

<p>COSTS: (XX) Not Applicable</p> <p>A. Budgeted current FY> \$ _____</p> <p>B. Total anticipated Costs> \$ _____</p> <p>C. Required additional funding> \$ _____</p> <p>D. Internal transfers> \$ _____</p> <p>COSTS: (XX) 4/5th Vote Required</p> <p>A. Unanticipated revenues> \$ _____</p> <p>B. Reserve for contingencies> \$ _____</p> <p>C. Source description: > _____</p> <p>Balance in Reserve Contingencies, If Approved: \$ _____</p> <p>SPECIAL INSTRUCTIONS:</p>	<p>List the attachments and number the pages consecutively:</p> <p><u>1. Resolution of Necessity</u> with Exhibits A, A1, B, & B1 (6 pages)</p> <p><u>2. Staff Report (6 pages)</u></p> <p><u>3. Vicinity Map (1 page)</u></p> <p><u>4. List of Heirs to Meyer Estate and sample Notice</u> mailed to each of the heirs (5 pages)</p> <p><u>5. Letter from Cogdill & Giomi RE Appraisers</u></p>
--	--



CLERK'S USE ONLY

Res. No.: 98-376 Ord. No.: _____

Vote - Ayes: _____ Noes: _____

Absent: _____ Abstained: _____

Approved

Denied

Minute Order Attached

No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office

Date: _____

ATTEST: _____

MARGIE WILLIAMS, Clerk of the Board

By: _____

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

_____ Recommended

_____ Not Recommended

_____ For Policy Determination

_____ Submitted with Comment

_____ Returned for Further Action

Comment: _____

C.A.O. Initials: _____



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

PATTI A. REILLY, CHAIR
BOB PICKARD, VICE-CHAIRMAN
DOUG BALMAIN
ROBERT C. STEWART
GARRY R. PARKER

DISTRICT I
DISTRICT V
DISTRICT II
DISTRICT III
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: MIKE EDWARDS, Public Works Director
Attn: Bruce Atkinson

FROM: MARGIE WILLIAMS, Clerk of the Board *Jry: PJB*

SUBJECT: A Resolution of Necessity for the Acquisition of Land Necessary for the Airport
Construction Project; Res. 98-376

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on October 13, 1998

ACTION AND VOTE:

10:22 a.m. Mike Edwards, Public Works Director;
Hearing for Resolution of Necessity for the Acquisition of Land Necessary for the Airport Construction
Project

BOARD ACTION: Discussion was held with Mike Edwards and Bruce Atkinson/PWD-Special Projects
Coordinator, relative to the status of this matter.

Input from the public was provided by the following:

Janet Bibby, speaking as an individual and representing herself, requested that the Board not take
action today to adopt a resolution of necessity for acquisition of the land. She stated she did not know
about the last meeting, and feels she should have been notified as an heir. She advised that the property has
been in her family for generations and she feels that this will set a precedence for future actions. She asked if
the Airport project is optional and requested information supporting the statements made in the notice
relative to the project and the Airport. She also expressed concern with conditions placed on the remaining
property because of the location of the Airport.

Betty Mankins, co-executor for the estate, advised that they do not have their appraisal ready. She
noted that this project has been discussed for ten years, and in May, 1998, it was decided to proceed, and
she does not feel that they have been given enough time. She stated that with the change in acreage being
requested, that she does not have the final offer from the County, and she expressed concern with the
proposal to relocate the spring. She stated they are using the land for cattle grazing and she feels it could be
more valuable in the future for other purposes.

Deanna Williams, heir to the estate, stated she agrees with Janet Bibby's comments and expressed concern with the notification process for the heirs. She stated she feels they need more time to review this matter, and also expressed concern with the relocation of the spring.

Discussion was held with Mike Edwards relative to the notification process and his contacts with the family, his efforts to resolve the issues with the relocation of the spring, and relative to the need for the project and the Master Plan for the Airport. Jeff Green, County Counsel, provided input relative to the notification process for the executors and the heirs to the estate.

Deanna Williams asked about the public need for the Airport.

Betty Mankins stated that she advised Public Works in the beginning that all of the heirs would need to be involved and not just the executors.

Janet Bibby asked what the consequences would be if the project is delayed, and asked about total costs for the project.

Discussion was held relative to costs and impacts if the project is delayed. Jeff Green advised that the County could continue to notify all of heirs of the land acquisition process; however, negotiations would be held with the executors.

(M)Pickard, (S)Balmain, to adopt a resolution of necessity, with direction to staff to move forward with the condemnation process. Further discussion was held. Ayes: Reilly, Balmain, Pickard; Noes: Parker; Excused: Stewart. (It was later determined that the motion failed.)

Deanna Williams asked if there is any personal gain or conflict of interest for Supervisor Balmain since he is a pilot and uses the Airport. Supervisor Balmain stated he uses the Airport as a pilot; however, it is not a conflict of interest.

Betty Mankins asked why this condemnation process is being pursued against their property and not with others.

Jeff Green advised that he feels the State statutes may require a 2/3rds vote on this matter, and he needs to review whether the motion passed – he will report back after lunch. Mike Edwards commented on the negotiation process in regard to the appraisal value.

4:05 p.m. Board reconvened. Jeff Green advised that the State statute requires a 2/3rds vote for the resolution of necessity for the Airport land acquisition, which means more than three members need to vote in favor for the motion to pass. Thus, the previous motion failed. Mike Edwards advised that he and Bruce Atkinson met with the family members after this morning's session and they reached a better understanding and feel that perhaps the best option is to negotiate a settlement. Jeff Green provided input relative to the court process for sale of property in an estate.

(M)Balmain, (S)Pickard, Res. 98-376 adopted for the acquisition of land necessary for the Airport construction project, with direction for County Counsel to not commence any formal process until after the close of business on November 24, 1998, to allow time for the matter to be resolved in the interim/Ayes: Reilly, Balmain, Pickard; Abstained: Parker; Excused: Stewart. Motion passed.

cc: Jeffrey G. Green, County Counsel
File

MARIPOSA COUNTY RESOLUTION NO. 98-376
**A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF LAND NECESSARY
FOR THE MARIPOSA-YOSEMITE AIRPORT PROJECTS**

WHEREAS, in accordance with the provisions of the California Code of Civil Procedure Section 1245.235, Mariposa County has caused notice of a hearing to be sent to Millicent June Meyer and the heirs and devisees of Horace Meyer, deceased, whose names and addresses appear on the last equalized County assessment roll; and

WHEREAS, Mariposa County on October 13, 1998, held a hearing in the Board Chambers, Mariposa, California, to consider the necessity for acquisition of the real property described below by eminent domain proceedings for purposes of the Mariposa-Yosemite Airport Construction Project.

NOW, THEREFORE, BE IT RESOLVED by the Mariposa County Board of Supervisors, a political subdivision of the State of California, as follows:

1. The public interest and necessity require the proposed project.
2. 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.
3. The property described in the resolution is necessary for the proposed project.
4. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record.
5. The taking of real property for Public purposes by eminent domain proceedings is authorized by Government Code Section 25350.5, Code of Civil Procedure Sections 1240.050 and 1240.110(a), and by Article I, Section 19, of the California Constitution.
6. The total area of the subject real properties consists of approximately 5.41 acres, more or less, and is located generally in the vicinity of the Mariposa-Yosemite Airport (in the Mt. Bullion area), and is more particularly

MARIPOSA COUNTY RESOLUTION NO. 98-376

A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF LAND NECESSARY
FOR THE MARIPOSA-YOSEMITE AIRPORT PROJECTS

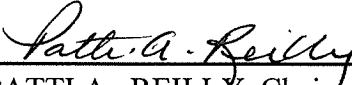
described in EXHIBITS "A" and "B" attached hereto, and by this reference incorporated herein, as though set forth in full.

7. The proposed permanent GRANT DEEDS and RIGHTS-OF-WAY, as shown by the YELLOW SHADED areas on the plat maps attached hereto as EXHIBITS "A1" and "B1", include the right to enter upon the aforementioned subject Real Property, to construct, maintain, improve, replace and repair facilities associated with the Mariposa-Yosemite Airport. The said GRANT DEEDS and RIGHTS-OF-WAY consists of 5.41 acres, more or less.
8. County Counsel is directed not to begin condemnation proceedings until after the close of business on November 24, 1998.

BE IT FURTHER RESOLVED that the Clerk of the Board of Supervisors shall give notice of such public hearing as required in Government Code Section 25210.33.

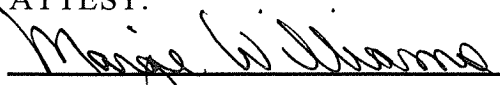
PASSED AND ADOPTED by the Mariposa County Board of Supervisors this 13th day of OCTOBER, 1998, by the following vote:

AYES: Reilly, Balmain, Pickard
 NOES: None
 ABSENT: Stewart
 ABSTAINED: Parker



 PATTI A. REILLY, Chair
 Mariposa County Board of Supervisor

ATTEST:



 MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



 JEFFREY G. GREEN, County Counsel



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

PATTI A. REILLY, CHAIR
BOB PICKARD, VICE-CHAIRMAN
DOUG BALMAIN
ROBERT C. STEWART
GARRY R. PARKER

DISTRICT I
DISTRICT V
DISTRICT II
DISTRICT III
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

Amended

TO: MIKE EDWARDS, Public Works Director
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Land Acquisition for Airport Construction Project; Res. 98-376

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on October 13, 1998

ACTION AND VOTE:

10:22 a.m. Mike Edwards, Public Works Director;
Hearing for Resolution of Necessity for the Acquisition of Land Necessary for the Airport Construction Project

BOARD ACTION: Discussion was held with Mike Edwards and Bruce Atkinson/PWD-Special Projects Coordinator, relative to the status of this matter.

Input from the public was provided by the following:

Janet Bibby, speaking as an individual and representing herself, requested that the Board not take action today to adopt a resolution of necessity for acquisition of the land. She stated she did not know about the last meeting, and feels she should have been notified as an heir. She advised that the property has been in her family for generations and she feels that this will set a precedent for future actions. She asked if the Airport project is optional and requested information supporting the statements made in the notice relative to the project and the Airport. She also expressed concern with conditions placed on the remaining property because of the location of the Airport.

Betty Mankins, co-executor for the estate, advised that they do not have their appraisal ready. She noted that this project has been discussed for ten years, and in May, 1998, it was decided to proceed, and she does not feel that they have been given enough time. She stated that with the change in acreage being requested, that she does not have the final offer from the County, and she expressed concern with the proposal to relocate the spring. She stated they are using the land for cattle grazing and she feels it could be more valuable in the future for other purposes.

Deanna Williams, heir to the estate, stated she agrees with Janet Bibby's comments and expressed concern with the notification process for the heirs. She stated she feels they need more time to review this matter, and also expressed concern with the relocation of the spring.

Discussion was held with Mike Edwards relative to the notification process and his contacts with the family, his efforts to resolve the issues with the relocation of the spring, and relative to the need for the project and the Master Plan for the Airport. Jeff Green, County Counsel, provided input relative to the notification process for the executors and the heirs to the estate.

Deanna Williams asked about the public need for the Airport.

Betty Mankins stated that she advised Public Works in the beginning that all of the heirs would need to be involved and not just the executors.

Janet Bibby asked what the consequences would be if the project is delayed, and asked about total costs for the project.

Discussion was held relative to costs and impacts if the project is delayed. Jeff Green advised that the County could continue to notify all of heirs of the land acquisition process; however, negotiations would be held with the executors.

(M)Pickard, (S)Balmain, to adopt a resolution of necessity, with direction to staff to move forward with the condemnation process. Further discussion was held. Ayes: Reilly, Balmain, Pickard; Noes: Parker; Excused: Stewart. (It was later determined that the motion failed.)

Deanna Williams asked if there is any personal gain or conflict of interest for Supervisor Balmain since he is a pilot and uses the Airport. Supervisor Balmain stated he uses the Airport as a pilot; however, it is not a conflict of interest.

Betty Mankins asked why this condemnation process is being pursued against their property and not with others.

Jeff Green advised that he feels the State statutes may require a 2/3rds vote on this matter, and he needs to review whether the motion passed – he will report back after lunch. Mike Edwards commented on the negotiation process in regard to the appraisal value.

4:05 p.m. Board reconvened. Jeff Green advised that the State statute requires a 2/3rds vote for the resolution of necessity for the Airport land acquisition, which means more than three members need to vote in favor for the motion to pass. Thus, the previous motion failed. Mike Edwards advised that he and Bruce Atkinson met with the family members after this morning's session and they reached a better understanding and feel that perhaps the best option is to negotiate a settlement. Jeff Green provided input relative to the court process for sale of property in an estate.

(M)Balmain, (S)Pickard, Res. 98-376 adopted for the acquisition of land necessary for the Airport construction project, with direction for County Counsel not to commence any formal process until after the close of business on November 24, 1998, to allow time for the matter to be resolved in the interim/Ayes: Reilly, Balmain, Pickard; Abstained: Parker; Excused: Stewart. Motion passed.

cc: Jeffrey G. Green, County Counsel
File