



Initial Consideration of Evidence for Resolution of Necessity No. 2011-04 through 2011-31 (No final action will be taken on any Resolution of Necessity at this Meeting)

Background

The Department of Water Resources (DWR) may acquire property for constructing, maintaining, or operating State Water Project facilities but it may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity. The governing body is the California Water Commission. Code of Civil Procedure section 1245.210. At its August 2011 meeting, the California Water Commission adopted a procedure for the Consideration of Resolutions of Necessity which includes advance notification to property owners and opportunities for public comment.

On August 30, the Commission sent notice to the owners of 28 properties in Sacramento, Yolo, and Solano Counties that it intends to hear evidence in for a resolution of necessity at its September 21 meeting, in compliance with Commission procedures and state law. The Commission mailed a second notification letter and a copy of the September 21 agenda to the property owners on September 9.

At this meeting, the Commission will consider evidence in support of these Resolutions of Necessity, consistent with step 2 of the Commission procedure. Step 2 states:

2. Consideration of Evidence in support of Resolution of Necessity

At a public meeting, the Commission will consider evidence in support of the specific findings required for a resolution of necessity pursuant to Section 1245.230, which states:

In addition to other requirements imposed by law, the resolution of necessity shall contain all of the following:

(a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.

(b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.

(c) A declaration that the governing body of the public entity has found and determined each of the following:

(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) That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

DWR will prepare and provide a Staff Report to the Commission for the agenda that includes the information necessary in order ensure that all four requirements for a resolution of necessity have been met (CCP 1245.230). The report shall include the following:

- *A description of the project.*
 - *An explanation of why the project is necessary and in the public interest.*
 - *An explanation of the legal authority for the project and the availability of funds for the project.*
 - *The status of other parcels required for the project: Total parcels; number of parcels acquired; number or parcels under right of entry; number of other owners expected to request appearance before the Commission.*
 - *Detailed Parcel Description.*
 - *Maps (index map, project title sheet, appropriate plan sheets and parcel maps) covering the project and its relationship to the full parcel must be provided.*
 - *A listing of the owner's primary concerns (compensation, design features, timing of the acquisition, lack of replacement housing, etc.).*
 - *A description of any design or right of way modifications suggested by the owner, including DWR's opinion on the feasibility of these suggestions and the basis for DWR's opinion (why they are or are not feasible).*
 - *A description of alternatives to the proposed taking that have been considered by DWR.*
 - *A description of official contacts or attempted contacts with the property owner (or representative) involving acquisition and formal offers, as well as a summary of each of the owner's concerns.*
 - *Identification of the appropriate contact persons within DWR that can provide additional detailed information.*
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- *Copy of Notice to Landowner*
 - *Copy of CEQA Compliance*
 - *Copy of correspondence between the Department of Water Resources and the landowner only if provided by the landowner to the Commission*

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Landowners and the public will be given the opportunity to address the Commission regarding the four required legal findings. As stated in the Commission's Procedure for Eminent Domain, the Commission will not take final action on any resolution of necessity at this meeting.

Attachments

California Water Commission Procedure for Eminent Domain

[Procedure for Eminent Domain Graphic](#)

Staff Report

Copy of Notice to Landowner

Copy of CEQA Compliance

- [Notice of Intent to Adopt a Supplemental Mitigated Negative Declaration](#)
- [Notice of Determination](#)
- [Mitigated Negative Declaration](#)

Contact

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