

**SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET**  
**PROPOSED ACTION IN EMINENT DOMAIN**  
**CALIFORNIA WATER COMMISSION**  
 October 19, 2011

**RON #:** 2011-28  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 142-0060-008-0000 (Sacramento County)  
**DWR #:** DCAP-191  
**Owner:** Michael G. Leary Trust, et al.

**Statistics**

| AS OF OCTOBER 12, 2011      |                       |                              |                       |                       |                                      |
|-----------------------------|-----------------------|------------------------------|-----------------------|-----------------------|--------------------------------------|
| # of Parcels to be Acquired | # of Parcels Acquired | Remaining Parcels to Acquire | # of Owners to Appear | # of Owners to Settle | Remaining Number of Owners to Appear |
| 59                          | 1                     | 58                           | 46                    | 1                     | 45                                   |

**Property Rights to be Acquired**

| <u>DWR Parcel No.</u> | <u>Area</u>    | <u>Rights</u>                    |
|-----------------------|----------------|----------------------------------|
| Unit A                | 16 sq. ft.     | Permanent Non-Exclusive Easement |
| Unit B                | 10,000 sq. ft. | Temporary Construction Easement  |
| Unit C                | 21,580 sq. ft. | Temporary Access Easement        |

**Parcel Information**

**Current Use:** Mixed use (Pear Orchard, Irrigated Field Crops, residential structure and various agricultural support structures)

**Zoning:** AG 80 DW (Agriculture, 80-acre minimum, Delta Waterways Combining Zone)

**Date of First Written Offer:** August 2, 2011

**Amount of Agency's Latest Written Offer:** Offer made pursuant to approved staff appraisal.

**Amount of Owner's Latest Counteroffer:** N/A

**Type of Geotechnical Activity:** One (1) CPT and one (1) drill hole

**Previous Contacts**

**Temporary Entry Permit (TEP) Phase**

**LETTERS (6)**

- Initial mailing of TEP; follow-up letters, referral to AG letter (7/07/10, 8/12/10, 9/03/10, 9/10/10, 1/27/11, and 2/02/11).

**TELEPHONE CALLS (3)**

- Left messages for owner. (8/03/10 and 8/05/10)
- Conversation with owner regarding TEP; owner advised DWR he was represented by counsel. (9/03/10)

**SITE VISITS (1)**

- Conducted site visit for general observation and verification of land use. (10/07/10)

## Recent Contacts

### **First Written Offer (FWO) Phase**

#### LETTERS (8)

- Notice to Appraise Letter, First Written Offer, follow-up letters, invitations to Commission meeting, Temporary Easement Alternative, and Notice of Intent to Adopt Resolution of Necessity (5/23/11, 8/02/11, 8/22/11, 8/30/11(two different letters), 9/06/11, 9/09/11, and 9/27/11).

#### TELEPHONE CALLS (4)

- DWR called and left messages for owner. (8/04/11 and 9/30/11)
- DWR called and spoke with owner; discussed the project, the FWO, asked why no proposed revisions to contract as promised, and set up a meeting. (8/18/11 and 9/30/11)

#### SITE VISITS (1)

- DWR met with owner at subject parcel; discussed the temporary easement contract, asked owner again for suggested revisions, and discussed moving the proposed drill hole; owner to provide suggested revisions to the temporary easement contract. (10/03/2011)

### Areas of Main Concern to Owner and DWR's Response

- Owner requested to move proposed drill site.

DWR agreed to move the drill site to the location proposed by the owner.

### Why Necessary to Initiate Eminent Domain Action

DWR has been unable to reach an agreement to acquire the necessary property rights through either negotiation or attempted negotiation. DWR desires to initiate eminent domain action to ensure that DWR meets its geotechnical schedule.