

SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET
PROPOSED ACTION IN EMINENT DOMAIN
CALIFORNIA WATER COMMISSION
 November 16, 2011

RON #: 2011-11
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 156-0030-018-0000 (Sacramento County)
DWR #: DCAP-207
Owner: Steve & Ann Marie Mello, Trustees of the Steve & Ann Mello Family Trust

Statistics

AS OF NOVEMBER 9, 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	2	57	46	2	44

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	44,800 sq. ft.	Temporary Access Easement

Parcel Information

Current Use: Home site and Irrigated Field Crops
Zoning: AG 80 (Agriculture, 80-acre minimum)
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 (5)

- Initial mailing of TEP; follow-up letters, referral to AG letter (7/07/10, 8/12/10, 9/03/10, 1/26/11, and 2/02/11).

TELEPHONE CALLS (6)

- Left messages, message from owner, conversation with owner (7/28/10, 8/11/10, 9/08/10, 9/09/10, 9/21/10, and 2/08/11).

SITE VISITS (1)

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

Recent Contacts

First Written Offer (FWO) Phase

- **FWO package included the following documents: Cover Letter, Valuation Summary Statement, Right of Way Contract, Easement Deed, Map of the Proposed Acquisition Area, Comparable Data List, Comparable Sales Map, and Payee Data Record**
- **Agent confirmed receipt of the FWO package.**

LETTERS (11)

- Notice to Appraise Letter, First Written Offer, follow-up letters, invitations to Commission meeting, Temporary Easement Alternative, Notices of Intent to Adopt Resolution of Necessity, Appraisal Cost Reimbursement Agreement, and Letter providing clarification regarding permanent easement and hazardous waste (5/23/11, 8/02/11, 8/22/11, 8/30/11, 9/06/11, 9/09/11, 9/13/11, 9/27/11, 10/12/11, 10/13/11, and 10/25/11).

TELEPHONE CALLS (8)

- DWR called and/or left messages requesting return call. (8/04/11, 8/16/11, 9/08/11, and 9/13/11)
- DWR called and spoke with owner; discussed the project and the FWO. Owner inquired about the independent appraisal; discussed concerns regarding the location of the proposed drill site and discussed the temporary easement alternative. (8/16/11 and 8/22/11)
- DWR called and spoke with the owner regarding his concerns identified in his letter submitted to the California Water Commission in September. Many of his concerns are not specific to the drill hole and involve CEQA issues. Owner indicated he is not willing to negotiate until all his concerns are adequately addressed. Owner requested an independent appraisal; discussed the process. Owner plans on addressing the CWC at the October meeting. (10/12/11)
- DWR called and spoke with owner; had a very brief conversation as owner indicated it was not a convenient time to talk; confirmed receipt of the Appraisal Cost Reimbursement Agreement; owner indicated he would review the document over the weekend and get back to me next week. (10/27/11)

EMAILS (3)

- DWR emailed owner confirming the proposed drill site has been located in area previously specified by owner; offered to meet to address any additional concerns regarding the geotechnical activities. (9/13/2011)
- DWR emailed owner the Appraisal Cost Reimbursement Agreement. DWR also requested owner, if interested in pursuing temporary easement alternative, to provide suggested revisions to the temporary easement contract that may adequately address his concerns regarding seepage. (10/12/11)
- DWR emailed owner inquiring if he had any questions regarding the Appraisal Cost Reimbursement Agreement. Again, DWR offered owner to provide suggested revisions to contract to address concerns. (11/07/11)

Areas of Main Concern to Owner and DWR's Response

Owner has expressed several concerns; many concerns are not specific to his property (CEQA issues). In regards to the geotechnical activities, but not specific to his property, the

owner has expressed concerns with water quality issues and oxidation of organic soil due to performance of test pits. **Specific to his property the owner requested to move the drill site to an area of less impact to agriculture operations and DWR complied.** Owner expressed concerns regarding the cloud on title created by acquisition of a permanent easement; DWR offered the temporary easement alternative. Owner further expressed concern regarding seepage occurring years after the performance of drilling. DWR requested owner to provide revisions to the contract that adequately addresses his concerns regarding seepage. Owner has indicated he is not willing to negotiate until all his concerns are adequately addressed (including CEQA concerns).

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.