

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

**RON #:** 2011- 06  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 043-050-004-000 (Yolo County)  
**DWR #:** DCAW-140  
**Owner:** **Steven S. and Susan M. Oates; John W. and Rosalia Fernandez-Merwin; Alison L. Merwin-Eyster**

**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	34,330 sq. ft.	Temporary Access Easement

**Parcel Information**

**Current Use:** Agriculture – Irrigated Field Crops  
**Zoning:** Agricultural Preserve Zone (A-P)  
**Date of First Written Offer:** July 7, 2011  
**Amount of Agency’s Latest Written Offer:** Offer made pursuant to approved staff appraisal.  
**Amount of Owner’s Latest Counter Offer:** 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, and referral to AG letter (4/10/09, 4/24/09, 5/04/09, 5/12/09, 5/18/09, and 5/29/09).

**TELEPHONE CALLS (5)**

- Left messages and conversations with owners at multiple phone numbers. (7/01/09, 7/07/09, 7/07/09, 7/8/09, and 7/31/09)

**SITE VISITS (1)**

- Conducted site visit for general observation and verification of land use. (11/30/09)

## 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 (10)

- Notice to Appraise Letter, First Written Offer, response letter/Temporary Easement Alternative, follow-up letters, invitations to Commission meeting, Notices of Intent to Adopt Resolution of Necessity, and Letter providing clarification regarding permanent easement and hazardous materials (5/02/11, 7/07/11, 7/29/11, 8/01/11, 8/15/11, 8/30/11, 9/09/11, 9/27/11, 10/13/11 and 10/25/11).

### TELEPHONE CALLS (19)

- DWR called and left messages at multiple phone numbers requesting return call. (7/08/11, 7/08/11, 8/02/11, 8/18/11, 8/18/11, 8/22/11, 8/22/11, 8/31/11, 10/17/11, 10/26/11))
- DWR called and spoke with owner (partial interest) and was directed to speak with spouse. (7/08/11 and 8/18/11)
- DWR called and spoke with owner (partial interest) and discussed the response letter; owner confirmed sharing all information with remaining owners; owner (partial interest) needs to discuss FWO with remaining owners and reach a decision. (8/02/11)
- DWR called and spoke with owner (partial interest) and was directed to speak with spouse; owner confirmed she is receiving information from other owner. (8/02/11 and 11/3/11)
- DWR called and spoke with owner (partial interest) and discussed FWO and temporary easement alternative; owner to discuss temporary easement alternative with remaining owners and reach a decision. (10/11/11 and 10/17/11)
- DWR called and spoke with owner (partial interest) and discussed the hearing and negotiations. Owner busy with harvest, but may be willing to meet on the subject parcel and discuss Temporary Easement Contract in the future. (10/18/11)
- DWR received call from owner (partial interest) stating that since hearings weren't going well for DWR, the owners want to wait for the CWC's decision at the next hearing before continuing negotiations. (10/26/11)

### EMAILS (3)

- DWR emailed owner and expressed desire to discuss FWO; owner replied with a list of questions. (7/18/11)
- DWR responded to owner's questions via email with a response letter attached. (7/29/11)
- Owner emailed DWR and decided against making any decision on FWO until after court hearing; DWR requested clarification on what hearing owner was referring to and expressed desire to maintain communication. (8/19/11)

### SITE VISITS (1)

- Conducted site visit for general observation and verification of land use. (11/1/11)

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

- Owner expressed concern with DWR's acquisition of a permanent easement.

DWR informed owner of the temporary easement alternative.

**No specific concerns identified in relation to the location of the proposed drill site.**

### **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.