

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

- **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, and Letter providing clarification regarding permanent easements and hazardous materials, Letter addressing concerns and encouraging negotiations (5/23/11, 8/02/11, 8/22/11, 8/30/11(two different letters), 9/06/11, 9/09/11, 9/27/11, 10/13/11, 10/25/11 and 11/04/11).

TELEPHONE CALLS (9)

- DWR called and left messages for owner. (8/04/11, 9/30/11 and 10/31/11)
- DWR called and spoke with owner; discussed the project, the FWO, proposed revisions to contract, to set up a meeting, to confirm DWR's compliance with owner's request to move drill hole, and the provide notice of RON being removed from October hearing. (8/18/11, 9/30/11, 10/12/11, twice on 10/17/11, and 10/24/11)

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 expressed concern with the proposed drill locations and suggested alternate locations.**

DWR complied with owner's request to move drill locations.

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.