

DEPARTMENT OF WATER RESOURCES

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(916) 653-5791



October 11, 2011

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DWR No.: [REDACTED]
County: [REDACTED]
APN(s): [REDACTED]

Subject: Purchase of Property Rights

The Department of Water Resources (DWR) has been advised of several concerns from landowners regarding DWR's request to purchase property rights for geotechnical activities in support of the Bay Delta Conservation Plan. These concerns include the acquisition of permanent rights and clarification of what would happen if hazardous materials are found on the property. This letter provides a response to these concerns.

In a recent court ruling, the San Joaquin County Superior Court found that DWR's request for entry to conduct drilling activities exceeded the permissible scope of the precondemnation statutes (Code of Civil Procedure, § 1245.010) and found that the entry would amount to an unconstitutional taking of private property. Since the Court found that the taking of native soil and backfilling the drill hole with bentonite grout was a permanent occupation of the property, it implicitly found that a permanent easement would need to be taken by DWR.

It is not DWR's desire to "cloud the title" of property. Rather, DWR is willing to enter into an agreement to acquire a temporary easement that would automatically terminate after DWR's work has been completed. However, if DWR is unable to negotiate a temporary easement, per the Court's ruling, DWR will proceed with acquisition of a permanent easement through the eminent domain process. After completion of the geotechnical explorations, and upon receipt of the landowner's written request, DWR will quitclaim its permanent easement at no cost to the landowner.

As part of the geotechnical activities, DWR is responsible for the proper handling and disposal of materials that DWR removes from the property. DWR is required to report any findings of hazardous materials to the local Regional Water Quality Control Board. Under state, federal, and local laws, parties responsible for any hazardous materials that preexist DWR's activities on the property may include current or prior owners, operators, generators, and transporters. Because DWR does not fall into any of these categories, DWR will not accept responsibility for preexisting hazardous materials on the property, if any.

If you have any questions or would like further information regarding the temporary easement alternative, please contact (Land Agent's name) at (916) xxx-xxxx; toll-free at (866) 688-3227, or by email at XXXX@water.ca.gov.

Sincerely,

Allan Davis
Supervising Land Agent