

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

RON #: 2011-10
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 142-0060-029-0000 (Sacramento County)
DWR #: DCAP-190
Owner: **Sacramento Bag Manufacturing Company, undivided 50% interest; Sylvia Fahn, undivided 10% interest; Stanley Fahn, undivided 20% interest; Ceclia F. Linder et al, 20% undivided interest.**

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	55,120 sq. ft.	Temporary Access Easement

Parcel Information

Current Use: 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 (6)

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

TELEPHONE CALLS (6)

- Left messages, messages from owner, conversation with owner (7/20/10, 7/22/10, 8/18/10, 8/27/10, 8/30/10, and 9/08/10).

EMAIL (2)

- Follow-up email to landowner with partial interest. (8/06/10 and 8/09/10)

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, Appraisal Cost Reimbursement Agreement, Notices of Intent to Adopt Resolution of Necessity, and Letter providing clarification regarding permanent easements and hazardous materials (5/23/11, 8/02/11, 8/22/11, 8/30/11, 9/06/11, 9/09/11, 9/13/11, 9/15/11, 9/27/11, 10/13/11, and 10/25/11).

TELEPHONE CALLS (9)

- DWR called and/or left messages requesting return call. (8/04/11, 8/16/11, 9/15/11, 10/12/11, 10/14/11, 10/17/11, and 10/24/11)
- DWR called; lengthy discussion with owner's representative. Discussed the project and the FWO. Representative informed DWR that the ownership is withholding any decision until "process goes through the court system". Representative expressed concerns regarding hazardous materials and will not authorize entry primarily due to this concern; ownership is requesting DWR to indemnify for any hazardous waste findings. Requested independent appraisal; Appraisal Cost Reimbursement Agreement mailed to representative. (8/23/11 and 9/14/2011)

EMAILS (3)

- Email to owner's representative regarding CWC meeting and providing update on the status of resolutions; requesting confirmation of outstanding issues. (10/17/11 and 10/28/11)
- Email from owner's representative reiterating position that the owners need to be held harmless in every respect from toxics to damages in order to reach agreement. (10/28/11)
- Email to owner's representative regarding elimination of environmental lab testing and offering to discuss any other solutions to reach an agreement. (11/04/11)

OTHER (1)

- Spoke with owner's representative at the CWC meeting; ownership is not willing to authorize entry unless DWR provides hazardous waste indemnification. Ownership will proceed through the eminent domain process. (9/21/11)

Areas of Main Concern to Owner and DWR's Response

- Owner identified concerns with finding hazardous materials on property.

DWR informed owner's representative that any hazardous materials found must be reported to the appropriate agencies; DWR will not provide indemnification for hazardous materials. **No specific concerns identified in relation to the location of the proposed drill sites.**

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.