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**DECLARATION OF RICHARD SANCHEZ
IN SUPPORT OF DEPARTMENT OF WATER RESOURCES'
REQUEST FOR RESOLUTIONS OF NECESSITY**

5 I, RICHARD SANCHEZ, make this declaration in support of the STATE OF
6 CALIFORNIA, DEPARTMENT OF WATER RESOURCES' (DWR's) requests for adoption of
7 Resolutions of Necessity before the California Water Commission. Upon information and belief,
8 I attest to the matters contained in this Declaration and, if called as a witness, I could and would
9 testify completely thereto.

10 1. I have been employed by the State of California and DWR for approximately 33
11 years as an engineer, and I am presently the Chief of the Division of Engineering and DWR's
12 Executive Manager for the Delta Habitat Conservation and Conveyance Program (DHCCP). I
13 oversee the DHCCP budget, schedule, engineering, real estate activities, including geotechnical
14 investigations and feasibility cost estimates.

15 2. In reference to the California Water Commission's March 21, 2012 Meeting
16 Agenda (Attachment 1), information regarding agenda items 7 through 9 is attached to this
17 Declaration. The information of each referenced agenda item is divided into sections and
18 includes the following exhibits:

19 A. Geotechnical Exploration (Exhibit A) – This document provides general
20 background on the method used to determine the best location for the drill holes. The table
21 describes the reason the parcel at issue is necessary for the project, the type of exploration to be
22 performed, the relevant proposed facility, the type of drilling for the proposed hole, and the depth
23 of the proposed hole in feet.

24 B. The Offer (Exhibit B) – This document consists of the cover letter,
25 easement deed (including legal description), and map of the proposed acquisition.

1 C. Supplement to Staff Report: Negotiation Fact Sheet (Exhibit C) – This
2 document includes Statistics (the total number of parcels to be acquired for the drilling project
3 [45], the number of parcels acquired to date [7], the total number of owners [38], the number of
4 owners to settle to date [7]); a description of the proposed property rights to be acquired; parcel –
5 specific information; a summary of DWR’s staff’s prior contracts with the relevant owner; a
6 description of the owner’s remaining concerns; and an explanation of why an eminent domain
7 action is required. The “Areas of Main Concern to Owner and DWR’s Response” includes an
8 explanation of how DWR addressed the owner’s stated concerns.

9 **Facts Supporting Finding No. 1:**
10 **The Public Interest and Necessity Require the**
11 **Project for Engineering Geotechnical Studies.**

12 3. DWR is conducting studies in support of the DHCCP and Bay Delta Conservation
13 Plan (BDCP) and the near-term and long-term approaches to meeting the goals of protecting,
14 restoring, and enhancing the ecosystem of the Sacramento-San Joaquin Delta (“the Delta”) and
15 providing a more reliable water supply for the State of California.

16 4. These studies are necessary to investigate and determine the best alternatives for
17 Delta water conveyances and other conservation measures. The data gathered is required before
18 some federal permits may be issued for the BDCP, if it is approved. Specifically, detailed
19 geological data is required for the 404(b)(1) Alternatives Analysis appendix to the final
20 Environmental Impact Report/ Environmental Impact Statement (EIR/EIS). Federal regulations
21 require that before a project can be permitted, the potential environmental impacts and
22 practicability of construction of the project must be compared with other alternatives to that
23 project. Agencies will issue permits for a proposed project only if it is found to be the least
24 environmentally damaging, practicable alternative that meets the project purpose.

1 **Facts Supporting Finding No. 3:**
2 **The Easements to be Acquired are Necessary for the Project.**
3

4 **Site Selection**

5 10. Sites were selected with respect to the alignments identified in the Conceptual
6 Engineering Report (CER) and after consultation with members of the DHCCP team, which
7 included staff from the environmental, legal, real estate, engineering, and geotechnical
8 disciplines. The criteria established by the team was to obtain relevant soil information for
9 preliminary and final design of facilities and permitting requirements (US Army Corps of
10 Engineers, DWR Division of Safety of Dams, etc.), to provide consistency with temporary
11 permit language and landowner concerns, to implement and follow required permits, and to
12 minimize overall impacts. A majority of the sites were selected to provide information and data
13 primarily for the intakes, river crossings, Intermediate Forebay, and the Byron Tract Forebay.
14 Additional sites were selected for the Pipeline/Tunnel Option.

15 11. The Geotechnical Exploration (Exhibit A) includes a chart identifying each
16 proposed hole and specifying why the locations were chosen.

17 **A Temporary Easement Would Not Comply with the Superior Court's Ruling**

18 12. DWR initially attempted to gain access for the geological studies by obtaining
19 voluntary temporary entry permits. When that was unsuccessful, DWR sought access through
20 the court-ordered entry process. After Judicial Council coordination proceedings, the matter was
21 venued in the County of San Joaquin.

22 13. In reviewing DWR's request for court-ordered entry to conduct geological testing,
23 our DWR Legal Office has determined that the Superior Court of San Joaquin County found that
24 the evidence supported the following conclusions: 1) DWR needs to conduct the proposed
25 geotechnical activities in order to determine the best feasible alternative for the water

1 conveyance project; 2) the water conveyance project is a matter of public interest; and 3) DWR
2 is authorized to investigate the project. (April 8, 2011 Order at p. 2.) However, the Court denied
3 DWR's request for entry pursuant to the precondemnation statutes (Code of Civ. Proc. §§
4 1245.010 et seq.) on the grounds that the requested entry would amount to an unconstitutional
5 taking of private property.

6 The Superior Court then noted that the geotechnical borings by DWR would remove about 2.04
7 cubic yards of native soil, which would be replaced permanently with the same amount of
8 bentonite grout.

9 14. Based on DWR's Legal Office review, the Superior Court's Order makes no
10 mention of easements whatsoever, permanent or temporary. The permanent nature of the
11 bentonite backfill was a determining factor for the Superior Court in reaching its decision.
12 DWR's Legal Office believes that a temporary easement would be an insufficient property right
13 to place permanent bentonite backfill under the court's reasoning.

14 15. After the Superior Court issued Order, DWR filed a renewal motion requesting
15 two entry days to conduct surveys solely for the purpose of hole placement. Most of the
16 landowners opposed this motion. The Superior Court declined to rule on the motion on the
17 grounds that the matter was stayed pending DWR's appeal of the Order.

18 16. Upon completion of DWR's geotechnical investigation on the property, DWR
19 will quitclaim its permanent easement in favor of the landowner(s).

20 **Facts Supporting Finding No. 4:**
21 **The Written Offer to the Owner of Record Has Been Made.**
22

23 17. DWR has repeatedly attempted to obtain voluntary access to the properties, but
24 consent for entry has not been granted. Attached is The Offer (Exhibit B), an example of the
25

1 documents sent to all relevant landowners, which includes the offer, the proposed temporary
2 easement deed, legal description and map.

3 18. True and correct copies of the offer submitted to the landowners of the properties
4 presently before the Commission are included in The Offer (Exhibit B).

5 **Additional Information – Project Funding**

6 19. The Department has entered into funding agreements with State and Federal water
7 agencies to fund the work necessary for collecting information and developing environmental
8 documents for the BDCP, including the studies described in this Declaration. Under the funding
9 agreements, the Department bills these water agencies, which provides for collection of funds in
10 advance of the work. The Department has approved the Task Order describing the geotechnical
11 and survey work that will be conducted on the proposed study areas. In 2011, the Department
12 obtained all the funds necessary to cover costs of this work.

13 **Additional Information – Hazardous Materials Testing**

14 20. The testing to be conducted on the soil sampled removed from the properties
15 would help identify the potential presence of chemical substances. Any potential soil
16 contamination must be considered because the discovery of hazardous materials can impact
17 alignment selection, schedule, and increase costs. No testing for pesticides will be conducted
18 unless there are indicators (dead vegetation, crusting, discolored soil, odors, etc.) in the
19 immediate area.

20 21. DWR has conducted numerous drilling activities in the Delta. The results of
21 recent lab testing (soil samples tested over the past three years) have no required any reporting
22 action by DWR. Substances that have been tested have no exceeded the threshold limits
23 established by regulatory departments of the California Environmental Protection Agency.
24



Meeting Notice and Agenda

Meeting of the California Water Commission

Wednesday, March 21, 2012

State of California, Resources Building

1416 Ninth Street, First Floor Auditorium

Sacramento, CA 95814

Beginning at 1:00p.m.

1. Welcome and Introductions
2. Roll Call
3. Approval of minutes
4. Executive Officer's Update
5. Action Item: Amendments to Resolutions of Necessity passed prior to February 2012 regarding quit -claim language and hazardous materials testing
6. Update on DWR Activities Related to Proposed Resolutions of Necessity for properties in Contra Costa, Sacramento, and San Joaquin Counties
7. -9. Action Items: Consideration of Resolutions of Necessity for properties in Contra Costa and Sacramento Counties (Action may be taken on these Resolutions of Necessity at this meeting)

Item	Owner Name	Assessor's Parcel Number	Resolution Number
7	Elliot Family Revocable Trust date April 13, 1993	132-0120-001-0000	2012-07
8	Clifton Court, LP; Alba C. Moore Survivor's Trust, and the Moore Exemption Trust	001-081-020-8	2012-09
9	Tsakopoulos Family Trust	132-0210-001-0000	2012-23

10. Action Item: Consideration of Agricultural Water Measurement Regulations
11. Legislative and Budget Update
12. Briefing on Congressional Appropriations for National Oceanic and Atmospheric Administration Climate Change Research
13. Briefing on U.S. Army Corps of Engineers Levee Vegetation Policy
14. Briefing on DWR regulations for State Water Project encroachment
15. Action Item: Adoption of Mission Statement and Discussion of Strategic Plan
16. Consideration of items for next California Water Commission meeting
17. Public Comments
18. Adjourn

At the discretion of the California Water Commission, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated upon and may be subject to action.

Further information regarding this meeting will be available at www.cwc.ca.gov. The meeting will be available for public viewing through a live webcast. The webcast will be available at the following URL:

<http://cawater.rmxpres.com/webcast/data/dwr03212012/main.htm>

- Members of the public shall be provided an opportunity to address the California Water Commission on any agenda item except closed session items. Comments during the public comment period shall be limited to matters within the Commission's jurisdiction. Reasonable time limits may be established for public comments (Government Code Section 11125.7)
- Agenda items may be heard in any order at the discretion of the Commission.
- Copies of meeting materials are available on the CWC website. Anyone may upon request obtain hard copies of background or other material on an agenda item that has been distributed to Members of the Commission. A fee covering the cost of the provision of such materials may be charged.
- It is the intention of the Commission that the meetings be webcast. However, due to technical difficulties the webcast may be unavailable at times. The full webcast video will generally be posted at cwc.ca.gov the following day.
- If you need reasonable accommodations due to a disability, or need language assistance please contact Danielle Gist at (916) 654-0533 or dgist@water.ca.gov at least a week prior to the meeting.
- For further information about items on this agenda please contact Rachel Ballanti, 1416 Ninth Street, Room 1148, Sacramento, CA 95814, (916) 653-7937 or rballant@water.ca.gov

**The Department of Water Resources’
Legal Authority to Conduct Geotechnical Investigations**

**I.
General Authority for the State Water Project**

Two key statutes authorize and guide the design, planning, construction, operation and maintenance of the State Water Project: the Central Valley Project Act (Wat. Code § 11100 et seq.) and the California Water Resources Development Bond Act (Wat. Code § 12930 et seq., commonly referred to as the Burns-Porter Act).

The Central Valley Project Act authorized and approved the Department’s participation in a state-wide water development, storage and distribution system. (Wat. Code § 11125.) In addition, the Legislature stated that the Department may do such acts and make such agreements as may be necessary and desirable in connection with the construction, operation and maintenance of the water project. (Wat. Code 11160.)

The Legislature amended the Central Valley Project Act to provide authority to add other units to the water project which are consistent with and which may be constructed, operated and maintained in furtherance of a single unified water system. (Wat. Code § 11290.)

The Burns–Porter Act was a General Obligation bond measure that provided funding for the initial construction of the State Water Project and provided additional specific and general authority regarding the water project. For example, the Burns-Porter Act defined “State Water Facilities” to include an aqueduct system to transport water from or near the Delta, including intake and diversion works, conduits, tunnels, siphons, pipelines and pumping systems. (Wat. Code § 12934(d).) “State Water Facilities” also included master levees, control structures, channel improvements and appurtenant facilities in the Delta for water conservation, water

supply in the Delta, transfer of water across the Delta, flood and salinity control and other functions. (Wat. Code § 12934(d)(3).)

II.

The Department's Authority to Acquire Interests in Real Property

The Central Valley Project Act and other statutes create the Department's authority to acquire the necessary interests in real property for the water project. For the purpose of constructing the water project, the Department may acquire whatever interests in real property the Department determines to be required and necessary for the construction of the project. (Wat. Code § 11575.) When the Department is unable to acquire the necessary property by agreement with the owner, the Department may exercise the power of eminent domain to acquire the property if the project for which the property is being acquired has been authorized and funds are available. (Wat. Code §§ 11577 and 11580.)

In addition, other provisions of law authorize the Department to acquire by eminent domain any property necessary for state water or dam purposes. (Wat. Code §§ 250, 253.)

The Department has the authority to enter onto property to do studies, examinations, tests, borings, samplings and similar activities related to the uses for which it has the power of eminent domain. (Code of Civ. Proc. § 1245.010.)

III.

The Department Has Authority to Study Water Resource Issues

The Department has numerous bases of specific and general authorities to study a wide variety of water resource project related issues; a few of these are described below:

- A. To carry out surveys and investigations into matters relating to the water resources of the State. (Wat. Code § 225.)

- B. To investigate conditions of the quality of all waters within the state and recommend steps which might be taken to improve or protect the quality of such waters. (Wat. Code § 229.)
- C. To evaluate the potential impacts on water supplies derived from the Delta from subsidence, earthquakes, floods, changes in precipitation, temperature and ocean levels (collectively climate change variables), and combinations of these kinds of occurrences. (Wat. Code § 139.2.)
- D. In cooperation with the Department of Fish and Game, to determine the principal options for addressing various Delta problems, such as: the potential disruption of water supplies; improving quality of drinking water; reducing salinity; maintain Delta water quality; preserving Delta islands; and protecting infrastructure, including levees. (Wat. Code § 139.4.)

Finally, The Sacramento-San Joaquin Delta Reform Act of 2009 provided additional direction and authority to study Delta improvements, including the Bay Delta Conservation Plan (BDCP). (Wat. Code § 85320.) This Act required the Department to study and analyze a reasonable range of Delta conveyance alternatives, including the through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines. (Wat. Code § 85320(b)(2)(B).)

GEOTECHNICAL EXPLORATION

MARCH 21, 2012

Background: The initial parcel selections were based on utilizing the most current available data, which included aerial photos, previously drilled holes and other pertinent data to assist in the proposed hole location.

Sites were selected with respect to the alignments identified in the Conceptual Engineering Report (CER) and after consultation with the members of the DHCCP team, which included staff from the environmental, real estate, engineering, and geotechnical disciplines. The criteria established by the team was to obtain relevant soil information for preliminary and final design of facilities and permitting requirements (US Army Corps of Engineers, Division of Safety of Dams, etc.), providing consistency with temporary entry permit language and landowner concerns, to implement and follow the Mitigated Negative Declaration language and required permits, and species to minimize overall impacts. A majority of the sites were selected to provide information and data primarily for the intakes, river crossings, Intermediate Forebay, and the Byron Tract Forebay. Additional sites were selected for the Pipeline/Tunnel Option.

After the Superior Court issued its Order, DWR filed a renewal motion requesting two entry days to conduct surveys solely for the purpose of hole placement. Most of the landowners opposed this motion. The Superior Court declined to rule on the motion on the grounds that the matter was stayed pending DWR's appeal of the Order.

AGENDA ITEM NO.	7
LAND OWNER	Elliot Family Revocable Trust date April 13, 1993
DWR PARCEL NO.	DCAP-143
APN	132-0120-001-0000
EXPLORATION NO.	DCN3-CPT-001, DCN3-CPT-017, DCA-CPT-022, DCN3-DH-001, DCN3-DH-017, DCA-DH-022
FACILITY	Pipeline/Tunnel Option
METHOD	CPT/DH
MAXIMUM DEPTH	200 feet
REMARKS	Rationale: Pipeline/Tunnel Option; the geologic data collected will help identify impacts on the local environment and community as a result of the tunnel excavation, will help in determining the optimum tunnel profile along the proposed alignment, and will also address the construction method for tunnel construction shafts and its temporary support during shaft excavation. The geologic data collected for the intake area will help evaluate the feasibility of intake area construction methods in terms of depth of excavation, dewatering, and type of foundation supports as well as the associated impacts to the local environment and community.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 7, 2011

David J. Elliot, Jr. & Bonnie Jean Elliot
The Elliot Family Revocable Trust
Post Office Box E
Courtland, California 95615

DWR No.: DCAP-143
County: Sacramento
APN: 132-0120-001-0000

Dear Mr. and Mrs. Elliot:

Our records indicate that you are the owner of certain property situated in Sacramento County, identified as Assessor's Parcel No. 132-0120-001-0000. The State of California Department of Water Resources (DWR), proposes to purchase property rights over this property, identified as DWR Parcel No. DCAP-143, to accomplish the goals of the Bay Delta Conservation Plan.

Section 7267.2 of the California Government Code and the California Relocation Assistance and Real Property Acquisition Guidelines require that each property owner from whom the State of California purchases real property, or an interest therein, be provided with a summary of the appraisal of the real property, or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property rights being purchased, unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of the real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The State will offer to purchase any remnant considered by the State to be an uneconomical unit which is owned by you and which is contiguous to the land being conveyed.
3. The rights to be acquired include a 160 square foot Permanent Non-Exclusive Easement containing ten 4' x 4' areas, a 100,000 square foot Temporary Construction Easement, and a 94,140 square foot Temporary Access Easement.

4. The market value of the property rights being purchased is based upon a market valuation, which is summarized in the enclosed Valuation Summary Statement. As full just compensation for the property rights to be acquired, we offer you \$ [REDACTED], as shown on the enclosed Right of Way Contract.

The State's offer:

- a. Represents the full amount of just compensation for the property rights to be purchased;
 - b. Is not less than the approved valuation of the fair market value of the property as improved;
 - c. Does not reflect any consideration of, or allowance for, any relocation assistance and payments or any other benefits to which you may be entitled; and
 - d. Disregards any decrease or increase in the fair market value of the real property rights to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired, or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant.
5. In accordance with Section 1263.025 of the California Code of Civil Procedure you are entitled to seek a second opinion on the value of your property and to receive reimbursement of up to \$5,000 to pay for reasonable appraisal costs. In order to be reimbursed, you must sign an Appraisal Costs Reimbursement Agreement and engage an appraiser licensed by the State of California with the Office of Real Estate Appraisers. The appraiser must be either a MAI designated appraiser or hold an equivalent designation recognized by the Appraisal Foundation. For further information on the requirements for reimbursement and to ensure that you are aware of proper procedures, please contact DWR prior to engaging an appraiser. The request for an Appraisal Costs Reimbursement Agreement may be submitted to the Department of Water Resources, Real Estate Branch, 1416 Ninth Street, Room 425, Sacramento, California 95814.
 6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property, which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the Grantor's ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.

7. If you ultimately elect to reject the State's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

Included as part of this package, you will find the following information relating to this proposed acquisition:

- Valuation Summary Statement
- Right of Way Contract
- Easement Deed
- Map of the Proposed Acquisition Area
- Comparable Data List
- Comparable Sales Map
- Payee Data Record

Please sign and date the Deed **exactly** as shown in the designated location and have your signatures **notarized**. If needed, a Public Notary can be made available to notarize your signatures. Also, sign and date **two** copies of the Right of Way Contract and complete Sections 2-5 of the Payee Data Record. The Payee Data Record is needed in order for the State to issue payment. Please return the signed Right of Way Contracts and the Payee Data Record along with the notarized Deed in the envelope provided. A fully executed copy of the Contract will be forwarded to you at a later date.

If you have any questions or need additional information, you may contact me directly by telephone at (916) 653-7654, or toll free at (866) 688-3227, or by email at toneil@water.ca.gov.

Sincerely,

Tom O'Neil
Associate Land Agent

Enclosures

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

DEPARTMENT OF WATER RESOURCES

Division of Engineering
Real Estate Branch
1416 9th Street, Room 425
Sacramento, CA 95814

SPACE ABOVE THE LINE FOR RECORDER'S USE

**PERMANENT NON-
EXCLUSIVE EASEMENT
(TO THE STATE)**

Project Bay Delta Conservation Plan

Parcel No. DCAP-143 (Units A, B, and C)

DAVID J. ELLIOT, JR., and BONNIE JEANNE ELLIOT, CO-TRUSTEES OF THE ELLIOT FAMILY REVOCABLE TRUST DATED APRIL 13, 1993, GRANT to the STATE OF CALIFORNIA, its successors or assigns, hereinafter called STATE, an EASEMENT and right of way, upon, over, and across that real property in the County of Sacramento, State of California, identified in the records of the Department of Water Resources as:

<u>DWR Parcel No.</u>	<u>Area</u>	<u>Estate</u>
DCAP-143 (Unit A)	160 square feet	Permanent easement
DCAP-143 (Unit B)	100,000 square feet	Temporary easement
DCAP-143 (Unit C)	94,140 square feet +/-	Temporary easement

(In the event of any discrepancy between the above identification and the real property described herein, the real property described will control.)

DCAP-143

UNIT A

A permanent non-exclusive easement for drilling purposes, over, upon, under and through the following described parcel of land, being all that portion described in GRANT DEED recorded in Book 19960802, Page 883 in the office of the County Recorder of Sacramento, State of California, on August 2, 1996, and more particularly described as follows:

Ten 4 foot by 4 foot locations as shown and delineated on attached Exhibit "A".

UNIT B

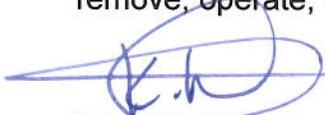
TOGETHER WITH temporary construction easements for the purpose of moving and/or maneuvering construction equipment and vehicles, the temporary storage of equipment, and materials necessary for drilling, together with the equipment used in the drilling of earthwork, the temporary storage of spoil or excavated material during the period of drilling and related construction work, and any other operations necessary and appurtenant to the drilling, over, through, and across the following described parcel of land shown on attached Exhibit "A".

UNIT C

TOGETHER WITH a 10 foot wide temporary access easement for the purpose of moving and/or maneuvering construction equipment and vehicles, during the period of drilling and related construction over and across an existing access and/or service road shown on attached Exhibit "A".

Temporary easements for access and construction shall terminate on October 31, 2013.

All works, structures and facilities remaining on said parcel of land after said termination date shall become the property of Owner and the State shall have no obligation to remove, operate, or maintain any works, structures, or facilities on said parcel of land.



Kristopher Klima
LS 8602

8/9/2011



Executed on _____

GRANTOR(S)

STATE OF CALIFORNIA }

SS

County of _____

On _____, 20 ____ , before me, _____

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[SEAL]

NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SECTION 27281)

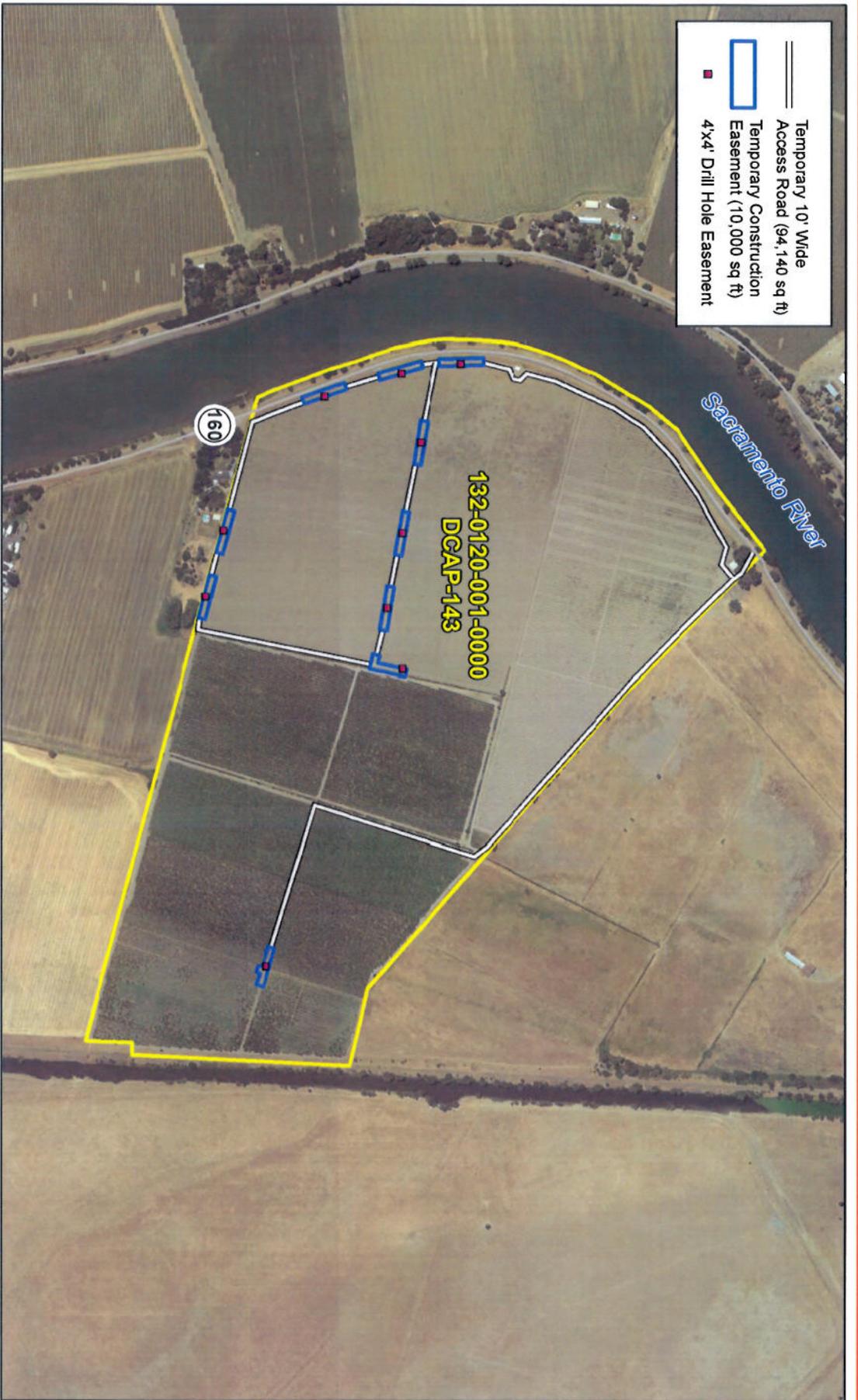
This Is To Certify, That the State of California, grantee herein, acting by and through the Department of Water Resources, hereby accepts for public purposes the real property, or interest therein, described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20_____

Director of Water Resources

By _____

Attorney in Fact



- Temporary 10' Wide Access Road (94,140 sq ft)
- Temporary Construction Easement (10,000 sq ft)
- 4x4' Drill Hole Easement

STATE OF CALIFORNIA
 THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
 DIVISION OF ENGINEERING - GEODETIC BRANCH

This exhibit does not represent a Survey and is for informational purposes only

**DELTA HABITAT CONSERVATION
 AND CONVEYANCE PROGRAM**
EXHIBIT A

Sacramento County

SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET
PROPOSED ACTION IN EMINENT DOMAIN
CALIFORNIA WATER COMMISSION
 March 21, 2012

RON #: 2012-07
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 132-0120-001-0000
DWR #: DCAP-143
Owner: The Elliot Family Revocable Trust

Statistics

As of March 12, 2012						
# of Parcels to be Acquired	# of Parcels Acquired	# of RONs Acquired	Remaining Parcels to Acquire	# of Owners to Appear	# of Owners Settled	Remaining Number of Owners to Appear
45	7	35	3	38	7	3

Property Rights to be Acquired

<u>DWR Parcel No.</u>	<u>Area</u>	<u>Rights</u>
Unit A	48 sq. ft.	Permanent Non-Exclusive Easement
Unit B	30,000 sq. ft.	Temporary Construction Easement
Unit C	83,690 sq. ft.	Temporary Access Easement

Parcel Information

Current Use: Orchard
Zoning: AG80 DW (Agriculture, 80-acre minimum)
Date of First Written Offer: September 7, 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: Three (3) CPTs; three (3) drill holes

Previous Contacts

Temporary Entry Permit (TEP) Phase

LETTERS (7)

- Initial mailing of TEP; 2nd mailing of TEP; follow-up letters (4); referral to AG letter (7/07/10, 8/10/10, 8/12/10, 9/03/10, 9/10/10, 1/26/11 and 2/02/11).

TELEPHONE CALLS (4)

- Left messages twice; 2 conversations with owner (7/29/10, 8/04/10, 8/09/10 and 9/08/10).

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 (14)

- Notice to Appraise Letter, First Written Offer, follow-up letters, Letter providing clarification regarding permanent easement and hazardous materials, Letter offering to stake easements, Temporary Easement Alternative, Notification of Consideration of Resolution of Necessity, Commission meeting follow-up letters with agenda, Letter requesting clarification regarding owner's representative, and Notices of Intent to Adopt a Resolution of Necessity (6/01/11, 9/07/11, 10/13/11, 10/18/11, 11/02/11, 11/28/11, 12/27/11, 12/29/11, 1/06/12, 1/24/12, 2/03/12, 2/21/12, 2/28/12, and 3/09/12.)

TELEPHONE CALLS (15)

- DWR called and spoke with owner, discussed the project and the FWO (10/28/11 and 1/12/12).
- DWR called and left message requesting return call (9/14/11, 9/26/11, 11/18/11, 12/9/11, 12/15/11, 12/20/11, 1/03/12, 1/19/12, 1/26/12, 1/27/12, and 2/17/12).
- DWR called and left a detailed voice mail regarding DWR dropping DCAP-270, the reduction of holes from 10 to 3 on DCAP-143, and that the agent wishes to discuss title holder issues (2/03/12 and 2/10/12).

EMAILS (7)

- DWR sent email addressing concerns (1/18/12).
- DWR sent email requesting clarification regarding owner's representative (2/12/12).
- DWR sent emails to coordinate meeting to stake easements (2/21/12, 2/27/12, 2/28/12, and 3/02/12).
- DWR sent email regarding relocation of proposed drill sites (3/08/12).

SITE VISITS (2)

- DWR met with owner's son, daughter, and son-in-law at subject parcel to discuss FWO (1/13/12).
- DWR met with owner's representatives on the property to stake easements (3/05/12).

Areas of Main Concern to Owner and DWR's Response

Owner is concerned with permanent easements clouding the owner's title; DWR has offered the Right of Way Contract for Temporary Easement.

Owner is concerned with the number of drill holes proposed and the locations; DWR has reduced the number of drill holes to three and relocated some of the holes.

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.

Agenda Item #8
Clifton Court, LP
Alba C. Moore Survivor's Trust

GEOTECHNICAL EXPLORATION

MARCH 21, 2012

Background: The initial parcel selections were based on utilizing the most current available data, which included aerial photos, previously drilled holes and other pertinent data to assist in the proposed hole location.

Sites were selected with respect to the alignments identified in the Conceptual Engineering Report (CER) and after consultation with the members of the DHCCP team, which included staff from the environmental, real estate, engineering, and geotechnical disciplines. The criteria established by the team was to obtain relevant soil information for preliminary and final design of facilities and permitting requirements (US Army Corps of Engineers, Division of Safety of Dams, etc.), providing consistency with temporary entry permit language and landowner concerns, to implement and follow the Mitigated Negative Declaration language and required permits, and species to minimize overall impacts. A majority of the sites were selected to provide information and data primarily for the intakes, river crossings, Intermediate Forebay, and the Byron Tract Forebay. Additional sites were selected for the Pipeline/Tunnel Option.

After the Superior Court issued its Order, DWR filed a renewal motion requesting two entry days to conduct surveys solely for the purpose of hole placement. Most of the landowners opposed this motion. The Superior Court declined to rule on the motion on the grounds that the matter was stayed pending DWR's appeal of the Order.

AGENDA ITEM NO.	8
LAND OWNER	Clifton Court, LP; Alba C. Moore Survivor's Trust, and the Moore Exemption Trust
DWR PARCEL NO.	DCAP-533
APN	001-081-020-8
EXPLORATION NO.	DCBF-CPT-021 DCBF-DH-021
FACILITY	Byron Tract Forebay
METHOD	CPT/DH
MAXIMUM DEPTH	200 feet
REMARKS	Rationale: Byron Tract Forebay; the geologic data collected will help identify the vertical profiles along the perimeter of the Byron Tract Forebay embankment, will help evaluate the needs to safely support the forebay embankment, will help address the necessary measures and methods that the proposed Byron Tract Forebay meets the safety requirements in accordance with Division of Safety of Dams criteria, and will help identify potential impacts due to requirements of soft ground foundation improvements.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 7, 2011

Clifton Court, L.P.
Linda M. Masten, Agent for Service
1330 West Robinhood Drive
Stockton, California 95207

DWR No.: DCAP-533
County: Contra Costa
APN(s): 011-081-020

Alba C. Moore, Trustee
Alba C. Moore Survivors Trust dated 2/21/07
Moore Exemption Trust date 2/21/07
8135 Barton Road
Granite Bay, California 95746

SUBJECT: Purchase of Property Rights

Our records indicate that you are the owner of certain property situated in Contra Costa County, identified as Assessor's Parcel No. 011-081-020. The State of California Department of Water Resources (DWR), proposes to purchase property rights over this property, identified as DWR Parcel No. DCAP-533, to accomplish the goals of the Bay Delta Conservation Plan.

Section 7267.2 of the California Government Code and the California Relocation Assistance and Real Property Acquisition Guidelines require that each property owner from whom the State of California purchases real property, or an interest therein, be provided with a summary of the appraisal of the real property, or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property rights being purchased, unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of the real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The State will offer to purchase any remnant considered by the State to be an uneconomical unit which is owned by you and which is contiguous to the land being conveyed.
3. The rights to be acquired include a 16 square foot Permanent Non-Exclusive Easement, a 10,000 square foot Temporary Construction Easement, and a 22,080 square foot Temporary Access Easement.

4. The market value of the property rights being purchased is based upon a market valuation, which is summarized in the enclosed Valuation Summary Statement. As full just compensation for the property rights to be acquired, we offer you \$ [REDACTED], as shown on the enclosed Right of Way Contract.

The State's offer:

- a. Represents the full amount of just compensation for the property rights to be purchased;
 - b. Is not less than the approved valuation of the fair market value of the property as improved;
 - c. Does not reflect any consideration of, or allowance for, any relocation assistance and payments or any other benefits to which you may be entitled; and
 - d. Disregards any decrease or increase in the fair market value of the real property rights to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired, or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant.
5. In accordance with Section 1263.025 of the California Code of Civil Procedure you are entitled to seek a second opinion on the value of your property and to receive reimbursement of up to \$5,000 to pay for reasonable appraisal costs. In order to be reimbursed, you must sign an Appraisal Costs Reimbursement Agreement and engage an appraiser licensed by the State of California with the Office of Real Estate Appraisers. The appraiser must be either a MAI designated appraiser or hold an equivalent designation recognized by the Appraisal Foundation. For further information on the requirements for reimbursement and to ensure that you are aware of proper procedures, please contact DWR prior to engaging an appraiser. The request for an Appraisal Costs Reimbursement Agreement may be submitted to the Department of Water Resources, Real Estate Branch, 1416 Ninth Street, Room 425, Sacramento, California 95814.
 6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property, which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the Grantor's ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.

Clifton Court, L.P.
Alba C. Moore, Trustee
Page 3

7. If you ultimately elect to reject the State's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

Included as part of this package, you will find the following information relating to this proposed acquisition:

- Valuation Summary Statement
- Right of Way Contract
- Easement Deed
- Map of the Proposed Acquisition Area
- Comparable Data List
- Comparable Sales Map
- Payee Data Record

Please sign and date the Deed **exactly** as shown in the designated location and have your signatures **notarized**. If needed, a Public Notary can be made available to notarize your signatures. Also, sign and date **two** copies of the Right of Way Contract and complete Sections 2-5 of the Payee Data Record. The Payee Data Record is needed in order for the State to issue payment. Please return the signed Right of Way Contracts and the Payee Data Record along with the notarized Deed in the envelope provided. A fully executed copy of the Contract will be forwarded to you at a later date.

If you have any questions or need additional information, you may contact me directly by telephone at (916) 653-7654, toll free at (866) 688-3227, or by email at toneil@water.ca.gov.

Sincerely,

Tom O'Neil
Associate Land Agent

Enclosures

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

DEPARTMENT OF WATER RESOURCES

Division of Engineering
Real Estate Branch
1416 9th Street, Room 425
Sacramento, CA 95814

SPACE ABOVE THE LINE FOR RECORDER'S USE

APN: 001-081-020-8

**PERMANENT NON-
EXCLUSIVE EASEMENT
(TO THE STATE)**

Project Bay Delta Conservation Plan

Parcel No. DCAP-533 (Units A, B, and C)

Clifton Court, L.P., a California limited partnership, as to an undivided 75% interest;

Alba C. Moore, Trustee of The Alba C. Moore survivor's Trust UTA dated February 21, 2007, as to 7.5833% of a 25% interest; and

Alba C. Moore, Trustee of The Moore Exemption Trust UTA dated February 21, 2007, as to 17.4167% of a 25% interest, GRANT to the STATE OF CALIFORNIA, its successors or assigns, hereinafter called STATE, an EASEMENT and right of way, upon, over, and across that real property in the County of Contra Costa, State of California, identified in the records of the Department of Water Resources as:

<u>DWR Parcel No.</u>	<u>Area</u>	<u>Estate</u>
DCAP-533 (Unit A)	16 square feet	Permanent easement
DCAP-533 (Unit B)	10,000 square feet	Temporary easement
DCAP-533 (Unit C)	22,080 square feet +/-	Temporary easement

(In the event of any discrepancy between the above identification and the real property described herein, the real property described will control.)

DCAP-533

UNIT A

All that portion of property lying in "projected" Section 30, Township 1 South, Range 4 East, M.D.M., in the County of Contra Costa, described in that Quitclaim Deed recorded as Document number 2009-0294413 Official Records of Contra Costa County, State of California, on December 16, 2009, and more particularly described as follows:

A permanent non-exclusive easement for drilling purposes, over, upon, under and through the following described parcel of land:

One 4 foot by 4 foot location(s) as shown and delineated on attached Exhibit "A".

UNIT B

TOGETHER WITH a temporary construction easement for the purpose of moving and/or maneuvering construction equipment and vehicles, the temporary storage of equipment, and materials necessary for drilling, together with the equipment used in the drilling of earthwork, the temporary storage of spoil or excavated material during the period of drilling and related construction work, and any other operations necessary and appurtenant to the drilling, over, through, and across the following described parcel of land shown on attached Exhibit "A".

UNIT C

TOGETHER WITH a 10 foot wide temporary access easement for the purpose of moving and/or maneuvering construction equipment and vehicles, during the period of drilling and related construction over and across an existing access and/or service road shown on attached Exhibit "A".

Temporary easements for access and construction shall terminate on October 31, 2013.

All works, structures and facilities remaining on said parcel of land after said termination date shall become the property of Owner and the State shall have no obligation to remove, operate, or maintain any works, structures, or facilities on said parcel of land.


9/7/2011

KRISTOPHER KLIMA
LS 8602



Executed on _____

GRANTOR(S)

STATE OF CALIFORNIA }

SS

County of _____

On _____, 20 ____, before me, _____

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[SEAL]

NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SECTION 27281)

This Is To Certify, That the State of California, grantee herein, acting by and through the Department of Water Resources, hereby accepts for public purposes the real property, or interest therein, described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20_____

Director of Water Resources

By _____

Attorney in Fact



- Temporary 10' Wide Access Road (22,080 sq ft)
- Temporary Construction Easement (10,000 sq ft)
- 4'x4' Drill Hole Easement

001-081-020
DGAP-533

Contra Costa County

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
DIVISION OF ENGINEERING - GEODETIC BRANCH



N.T.S.

This exhibit does not represent a Survey and is for informational purposes only

**DELTA HABITAT CONSERVATION
AND CONVEYANCE PROGRAM
EXHIBIT A**

SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET
PROPOSED ACTION IN EMINENT DOMAIN
CALIFORNIA WATER COMMISSION
 March 21, 2012

RON #: 2012-09
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 001-081-020
DWR #: DCAP-533
Owner: Clifton Court, LP; Alba C. Moore Survivors Trust; Moore Exemption Trust.

Statistics

As of March 12, 2012						
# of Parcels to be Acquired	# of Parcels Acquired	# of RONs Acquired	Remaining Parcels to Acquire	# of Owners to Appear	# of Owners Settled	Remaining Number of Owners to Appear
45	7	35	3	38	7	3

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	22,080 sq. ft.	Temporary Access Easement

Parcel Information

Current Use: Agriculture-IFC
Zoning: A-2 (Agriculture zoning, 5 acre minimum)
Date of First Written Offer: September 7, 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) drill hole; one (1) CPT.

Previous Contacts

Temporary Entry Permit (TEP) Phase

LETTERS (6)

- Initial mailing of TEP; follow-up letters (4); referral to AG letter (7/12/10, 8/12/10, 9/03/10, 9/10/10, 1/26/11 & 2/02/11).

TELEPHONE CALLS (2)

- Called, no answer (7/12/10 and 8/05/10).

SITE VISITS (1)

- Conducted site visit for general observation and verification of land use (10/18/10).

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 (15)

- Notice to Appraise Letter, First Written Offer, follow-up letters, Temporary Easement Alternative, Letter providing clarification regarding permanent easement and hazardous materials, Letter offering to stake easements, Notification of Consideration of Resolution of Necessity, Commission meeting follow-up letters with agenda, Letters addressing concerns and encouraging negotiations, Notices of Intent to Adopt Resolution of Necessity, and Letter confirming postponement of Resolution of Necessity (6/23/11, 9/07/11, 9/18/11, 10/11/11, 10/13/11, 11/28/11, 12/15/11, 12/27/11, 12/29/11, 1/06/12, 1/11/12, 1/24/12, 2/03/12, 2/28/12, and 3/09/12).

TELEPHONE CALLS (8)

- DWR called and spoke with owner, discussed the project and the FWO (12/09/11);
- DWR called and left message requesting return call (9/09/11, 10/17/11, 10/28/11, 11/14/11, and 1/26/12).
- DWR called and left message confirming the Resolution of Necessity had been postponed until March and that DWR is researching issues expressed in the January 25, 2012 letter to the CWC (2/14/12).
- DWR called and left message indicating that DWR will be providing a written response to the issues expressed in letters received on January 9, 2012 and January 25, 2012 (3/08/12).

Areas of Main Concern to Owner and DWR's Response

Owner has identified general concerns with the BDCP and has expressed concerns with prior drilling on the property. DWR is in the process of responding to owner's concerns in writing.

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.

Agenda Item #9
Tsakopoulos Family Trust

GEOTECHNICAL EXPLORATION

MARCH 21, 2012

Background: The initial parcel selections were based on utilizing the most current available data, which included aerial photos, previously drilled holes and other pertinent data to assist in the proposed hole location.

Sites were selected with respect to the alignments identified in the Conceptual Engineering Report (CER) and after consultation with the members of the DHCCP team, which included staff from the environmental, real estate, engineering, and geotechnical disciplines. The criteria established by the team was to obtain relevant soil information for preliminary and final design of facilities and permitting requirements (US Army Corps of Engineers, Division of Safety of Dams, etc.), providing consistency with temporary entry permit language and landowner concerns, to implement and follow the Mitigated Negative Declaration language and required permits, and species to minimize overall impacts. A majority of the sites were selected to provide information and data primarily for the intakes, river crossings, Intermediate Forebay, and the Byron Tract Forebay. Additional sites were selected for the Pipeline/Tunnel Option.

After the Superior Court issued its Order, DWR filed a renewal motion requesting two entry days to conduct surveys solely for the purpose of hole placement. Most of the landowners opposed this motion. The Superior Court declined to rule on the motion on the grounds that the matter was stayed pending DWR's appeal of the Order.

AGENDA ITEM NO.	9
LAND OWNER	Tsakopoulos Family Trust
DWR PARCEL NO.	DCAE-5
APN	132-0210-001-0000
EXPLORATION NO.	DCE-CPT-006
FACILITY	East Option
METHOD	CPT
MAXIMUM DEPTH	100 feet
REMARKS	Rationale: ICF-East Option; the geologic data collected from the proposed CPT will help evaluate the impacts on local and regional ground water regime from the proposed canal excavation, will help evaluate the stability of canal embankments, and will help identify the impacts of construction related activities on the local environment and community.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



September 30, 2011

Tsakopoulos Family Trust
7423 Fair Oaks Blvd., Suite 10
Carmichael, California 95608-1791

DWR No.: DCAE-5
County: Sacramento
APN(s): 132-0210-001-0000

SUBJECT: Purchase of Property Rights

Our records indicate that you are the owner of certain property situated in Sacramento County, identified as Assessor's Parcel No. 132-0120-001-0000. The State of California Department of Water Resources (DWR), proposes to purchase property rights over this property, identified as DWR Parcel No. DCAE-5, to accomplish the goals of the Bay Delta Conservation Plan.

Section 7267.2 of the California Government Code and the California Relocation Assistance and Real Property Acquisition Guidelines require that each property owner from whom the State of California purchases real property, or an interest therein, be provided with a summary of the appraisal of the real property, or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property rights being purchased, unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of the real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The State will offer to purchase any remnant considered by the State to be an uneconomical unit which is owned by you and which is contiguous to the land being conveyed.
3. The rights to be acquired include a 16 square foot Permanent Non-Exclusive Easement, a 10,000 square foot Temporary Construction Easement and a 29,570 square foot Temporary Access Easement.

4. The market value of the property rights being purchased is based upon a market valuation, which is summarized in the enclosed Valuation Summary Statement. As full just compensation for the property rights to be acquired, we offer you \$[REDACTED], as shown on the enclosed Right of Way Contract.

The State's offer:

- a. Represents the full amount of just compensation for the property rights to be purchased;
 - b. Is not less than the approved valuation of the fair market value of the property as improved;
 - c. Does not reflect any consideration of, or allowance for, any relocation assistance and payments or any other benefits to which you may be entitled; and
 - d. Disregards any decrease or increase in the fair market value of the real property rights to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired, or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant.
5. In accordance with Section 1263.025 of the California Code of Civil Procedure you are entitled to seek a second opinion on the value of your property and to receive reimbursement of up to \$5,000 to pay for reasonable appraisal costs. In order to be reimbursed, you must sign an Appraisal Costs Reimbursement Agreement and engage an appraiser licensed by the State of California with the Office of Real Estate Appraisers. The appraiser must be either a MAI designated appraiser or hold an equivalent designation recognized by the Appraisal Foundation. For further information on the requirements for reimbursement and to ensure that you are aware of proper procedures, please contact DWR prior to engaging an appraiser. The request for an Appraisal Costs Reimbursement Agreement may be submitted to the Department of Water Resources, Real Estate Branch, 1416 Ninth Street, Room 425, Sacramento, California 95814.
 6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property, which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the Grantor's ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.

7. If you ultimately elect to reject the State's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

Included as part of this package, you will find the following information relating to this proposed acquisition:

- Valuation Summary Statement
- Right of Way Contract
- Easement Deed
- Map of the Proposed Acquisition Area
- Comparable Data List
- Comparable Sales Map
- Payee Data Record

Please sign and date the Deed **exactly** as shown in the designated location and have your signature **notarized**. If needed, a Public Notary can be made available to notarize your signature. Also, sign and date **two** copies of the Right of Way Contract and complete Sections 2-5 of the Payee Data Record. The Payee Data Record is needed in order for the State to issue payment. Please return the signed Right of Way Contracts and the Payee Data Record along with the notarized Deed in the envelope provided. A fully executed copy of the Contract will be forwarded to you at a later date.

If you have any questions or need additional information, you may contact me directly by telephone at (916) 654-7560, toll free at (866) 688-3227, or by email at cdabney@water.ca.gov.

Sincerely,

Carolyn Dabney
Senior Land Agent

Enclosures

RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

DEPARTMENT OF WATER RESOURCES

Division of Engineering
Real Estate Branch
1416 9th Street, Room 425
Sacramento, CA 95814

SPACE ABOVE THE LINE FOR RECORDER'S USE

**PERMANENT NON-
EXCLUSIVE EASEMENT**
(TO THE STATE)

Project Bay Delta Conservation Plan

Parcel No. DCAE- 5 (Units A, B, and C)

We, George Tsakopoulos and Drosoula Tsakopoulos as Trustees of the Tsakopoulos Family Trust created by Declaration of Trust dated August 5, 1991, GRANT to the STATE OF CALIFORNIA, its successors or assigns, hereinafter called STATE, an EASEMENT and right of way, upon, over, and across that real property in the County of Sacramento, State of California, identified in the records of the Department of Water Resources as:

<u>DWR Parcel No.</u>	<u>Area</u>	<u>Estate</u>
DCAE- 5 (Unit A)	16 square feet	Permanent easement
DCAE- 5 (Unit B)	10,000 square feet	Temporary easement
DCAE- 5 (Unit C)	29,570 square feet +/-	Temporary easement

(In the event of any discrepancy between the above identification and the real property described herein, the real property described will control.)

DCAE-5

UNIT A

A permanent non-exclusive easement for over, upon, under and through that parcel of land as described in that Grant Deed recorded in Book 91088 at Page 0911 in the Official Records of Sacramento County on August 8, 1991 and more particularly described as follows:

One 4 foot by 4 foot locations as delineated on attached Exhibit "A".

UNIT B

TOGETHER WITH a temporary construction easement for the purpose of moving and/or maneuvering construction equipment and vehicles, the temporary storage of equipment, and materials necessary for drilling, together with the equipment used in the drilling of earthwork, the temporary storage of spoil or excavated material during the period of drilling and related construction work, and any other operations necessary and appurtenant to the drilling, over, through, and across the following described parcel of land shown on attached Exhibit "A".

UNIT C

TOGETHER WITH a 10 foot wide temporary access easement for the purpose of moving and/or maneuvering construction equipment and vehicles, during the period of drilling and related construction over and across an existing access and/or service road shown on attached Exhibit "A".

Temporary easements for access and construction shall terminate on October 31, 2013.

All works, structures and facilities remaining on said parcel of land after said termination date shall become the property of Owner and the State shall have no obligation to remove, operate, or maintain any works, structures, or facilities on said parcel of land.


Annette Lockhart
PLS 8246


29 Sept 2011



Executed on _____

GRANTOR(S)

STATE OF CALIFORNIA }

SS

County of _____

On _____, 20____, before me, _____

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[SEAL]

NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SECTION 27281)

This Is To Certify, That the State of California, grantee herein, acting by and through the Department of Water Resources, hereby accepts for public purposes the real property, or interest therein, described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20_____

Director of Water Resources

By _____

Attorney in Fact



Temporary 10' Wide Access
Road (29,570 sq ft)

Temporary Construction
Easement (10,000 sq ft)

4x4' Drill Hole
Easement

Sacramento County



N.T.S.

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
DIVISION OF ENGINEERING - GEODETIC BRANCH

**DELTA HABITAT CONSERVATION
AND CONVEYANCE PROGRAM
EXHIBIT A**

This exhibit does not represent a Survey and is for informational purposes only

SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET
PROPOSED ACTION IN EMINENT DOMAIN
CALIFORNIA WATER COMMISSION
 March 21, 2012

RON #: 2012-23
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 132-0210-001-000
DWR #: DCAE-5
Owner: Tsakopoulos Family Trust

Statistics

As of March 12, 2012						
# of Parcels to be Acquired	# of Parcels Acquired	# of RONs Acquired	Remaining Parcels to Acquire	# of Owners to Appear	# of Owners Settled	Remaining Number of Owners to Appear
45	7	35	3	38	7	3

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	42,740 sq. ft.	Temporary Access Easement

Parcel Information

Current Use: Irrigate Field Crops
Zoning: AG 40 (Agriculture, 40-acre minimum)
Date of First Written Offer: August 3, 2011; revised FWO sent September 30, 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

Previous Contacts

Temporary Entry Permit (TEP) Phase

LETTERS (3)

- Initial mailing of TEP; follow-up letters; referral to AG letter (4/10/09, 5/04/09, and 5/29/09).

TELEPHONE CALLS (3)

- Left messages; conversation with owner and owner's representative (5/04/09, 5/13/09, 8/11/09).

SITE VISITS (1)

- Conducted site visit for general observation and verification of land use (5/08/09).

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 (14)

- Notice to Appraise Letter, First Written Offer, follow-up letters, Revised First Written Offer, Letter providing clarification regarding permanent easement and hazardous materials, Letter offering to stake easement, Notification of Consideration of Resolution of Necessity, Commission meeting follow-up letters with agenda, Letters responding to and transmitting public records, and Notice of Intent to Adopt Resolution of Necessity (5/23/11, 8/03/11, 8/22/11, 9/09/11, 9/30/11, 10/13/11, 11/28/11, 12/27/11, 1/06/12, 1/24/12, 2/03/12, 2/16/12, 2/28/12, and 3/09/12).

TELEPHONE CALLS (4)

- DWR called and spoke with owner's representative; discussed the project and the FWO (8/04/11, 8/16/11).
- Conversations with owner's attorney regarding temporary easement alternative and revised FWO package (9/07/11, 9/20/11).

EMAILS (14)

- Several emails with owner's attorney addressing revised FWO, scheduling of meeting to discuss acquisition, reason for drilling, request to relocate drill site to public property, CWC meeting schedule, and public records request (Various dates from 9/27/11 through 3/06/12).

MEETINGS (1)

- DWR met with owner and owner's attorney. Owner expressed strong opposition to the BDCP. Discussed concerns with allowing access to property, necessity for drilling on the property, proposed drilling activities, potential impacts to farming operations, and the temporary easement alternative. DWR offered to relocate drill site to another area on the property of less impact; Owner did not express specific concerns with proposed location and chose not to identify an alternate site. Owner's suggested alternative was either to eliminate the drill site or move the drill site to adjacent property (public or private). Owner's attorney indicated she had attended the CWC in September and as a result of that meeting is engaging with DWR; however, she stated they have no intentions to negotiate the terms of either a permanent or temporary easement (October 6, 2011).

Areas of Main Concern to Owner and DWR's Response

Owner's attorney submitted letters to the CWC expressing various concerns including lack of a project description, lack of an accurate legal description, and the necessity of both the project and drilling on owner's property. In relation to the proposed geotechnical activities, concern was expressed regarding the potential to significantly interfere with farming operations and potential damage to subsurface irrigation and gas lines. DWR did offer to relocate drill site to another area on the property; however, owner refused to offer any alternate location other than to suggest elimination of the drill site or relocation to another

property. After careful consideration and review, DWR determined that relocating the drill site to the nearby publicly owned property is not feasible as the geotechnical data obtained from the property will not provide sufficient data due to the distance of the property from the proposed alternative.

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.