

**PREPARED FOR THE CALIFORNIA WATER COMMISSION  
AMENDED RESOLUTION OF NECESSITY  
DEPARTMENT OF WATER RESOURCES (DWR) STAFF REPORT – ENCUMBRANCES  
March 20, 2013**

**RON No.:** 2011-29  
**Adoption Date:** November 16, 2011  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 156-0060-011-0000  
**DWR Parcel No.:** DCAP-213  
**Owner(s):** The Douglas and Patricia Allen Trust  
**Rights to be Acquired:** Permanent Non-Exclusive Easement, Temporary Construction Easement, and Temporary Access Easement

### **AMENDMENT PURPOSE**

The purpose of this amendment is to include additional findings in the Resolution of Necessity regarding the impacts of the acquisition on the existing encumbrances as identified in California Code of Civil Procedure Sections 1240.510 and 1240.610.

“Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.” California Code Civil Procedure Section 1240.510.

“Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use the property appropriated to public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.” California Code Civil Procedure Section 1240.610.

## **PARCEL INFORMATION**

Detailed Parcel Description: The subject property is a 100-acre irregularly shaped parcel with approximately 99.5 percent Class 3w soil and is currently planted to irrigated field crops, irrigated via the flood method. The subject parcel is located in an unincorporated area of Sacramento County, adjacent to the Mokelumne River, and is approximately 5.4 miles south of Walnut Grove and 3.5 miles east of Isleton. The property is along Tyler Island Road, a two-lane county maintained gravel road servicing the area.

1. Current Use: Agriculture – Irrigated Field Crops

**Encumbrances – Public Use:**

<b>Number Listed on Map</b>	<b>Interest Holder</b>	<b>Depicted on Map?</b>	<b>Description</b>	<b>DWR Impacts</b>	<b>Recommended Determination on CCP 1240.510 and 1240.610</b>
Part I 1-2	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 3	Sacramento County	No (Affects entire parcel)	Unpaid municipal services	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 4	Reclamation District 563	No (Affects entire parcel)	Rights for roads, ditches, canals, and levees	None	(1) DWR's proposed use will have no impact on transportation access on streets, roads, and highways and no impact on any rights to ditches, canals, and levees. Therefore, DWR's proposed use satisfies CCP 1240.510.  (2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta with respect to maintaining the stability of the Delta's water

<sup>1</sup> Where the phrase of "No apparent public use" appears, it means that based on the information received from the title company the interest does not appear to represent a public use. Therefore, no finding is required.

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					supply and ecosystem DWR's proposed use is more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.
Part I 5	Unknown	No (Affects entire parcel)	Adverse claim that some portion of the land has not at any time been within the State of California or County of Sacramento	None	(1) DWR's proposed use of the land would not affect the location of parcel boundaries or claims related thereto. Therefore, DWR's proposed use satisfies CCP 1240.510.  (2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta with respect to maintaining the stability of the Delta's water supply and ecosystem. These efforts affect the State of California as a whole. DWR's proposed use is more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.

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Part I 6, 7, 9	Public	No (Affects entire parcel)	High water mark, accretion or avulsion Rights and easements for navigation and fishery	None	<p>(1) DWR's proposed use will not impair any rights of claims regarding accretion or avulsion or any right or easements for navigation and fishery as DWR's proposed use is not located at or near the location of such interests. Therefore, DWR's proposed use satisfies CCP 1240.510.</p> <p>(2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta with respect to maintaining the stability of the Delta's water supply and ecosystem. These efforts affect the State of California as a whole. DWR's proposed use is more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.</p>

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Part I 8	Public	No (Affects entire parcel)	Rights of the Public (Nature of rights not disclosed)	None	<p>(1) DWR's proposed use will not impair any apparent rights in favor of the public. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to confirm existing land uses. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing land uses, DWR will not carry out such activities at the affected location. Throughout DWR's proposed use of the condemned area, the public will continue to have transportation and other access on streets, roads, public places, and highways commensurate with existing access. Therefore, DWR's proposed use satisfies CCP 1240.510.</p> <p>(2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta with respect to maintaining the stability of the Delta's water</p>

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Part II 1, 2	PG&E (successor to Great Western Power Company)	No (unable to determine location)	Easement for Electrical Facilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with the use or function of electrical facilities. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of facilities. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing facilities, DWR will not carry out such activities at the affected location. Therefore, DWR's proposed use satisfies CCP 1240.510.</p> <p>(2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta</p>

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Part II 3	PG&E (successor to Great Western Power Company)	No (exact location cannot be determined)	Easement for Gas Pipeline	None following survey	(1) DWR's proposed use will not impair or interfere with transmission of gas or rights associated therewith. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of facilities. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing facilities, DWR will not carry out such activities at the affected location. Therefore, DWR's proposed use satisfies CCP 1240.510.

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Part II 4	Sacramento County	No (Affects entire parcel)	Resolution establishing Agricultural preserve	None following survey	(1) DWR's proposed use will not change existing land uses. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to confirm existing land uses. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing land uses, DWR will not carry out such activities at the affected location. Therefore, DWR's

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					<p>proposed use satisfies CCP 1240.510.</p> <p>(2) DWR's proposed use will enable the collection of geotechnical data to support the evaluation of potential conveyance facilities in the Delta with respect to maintaining the stability of the Delta's water supply and ecosystem. These efforts affect the State of California as a whole. DWR's proposed use is more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 5	Unknown	No (Affects entire parcel)	C.C. & R's in document	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part II 6	Tri Valley Oil and Gas Company	No (Affects entire parcel)	Oil and Gas Lease	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part II 7	Towne Exploration Company	No (Affects	Oil and Gas Lease	None	No apparent public use implicated <sup>1</sup> . No finding required.

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		entire parcel)			

DATED SEPT 19, 2011

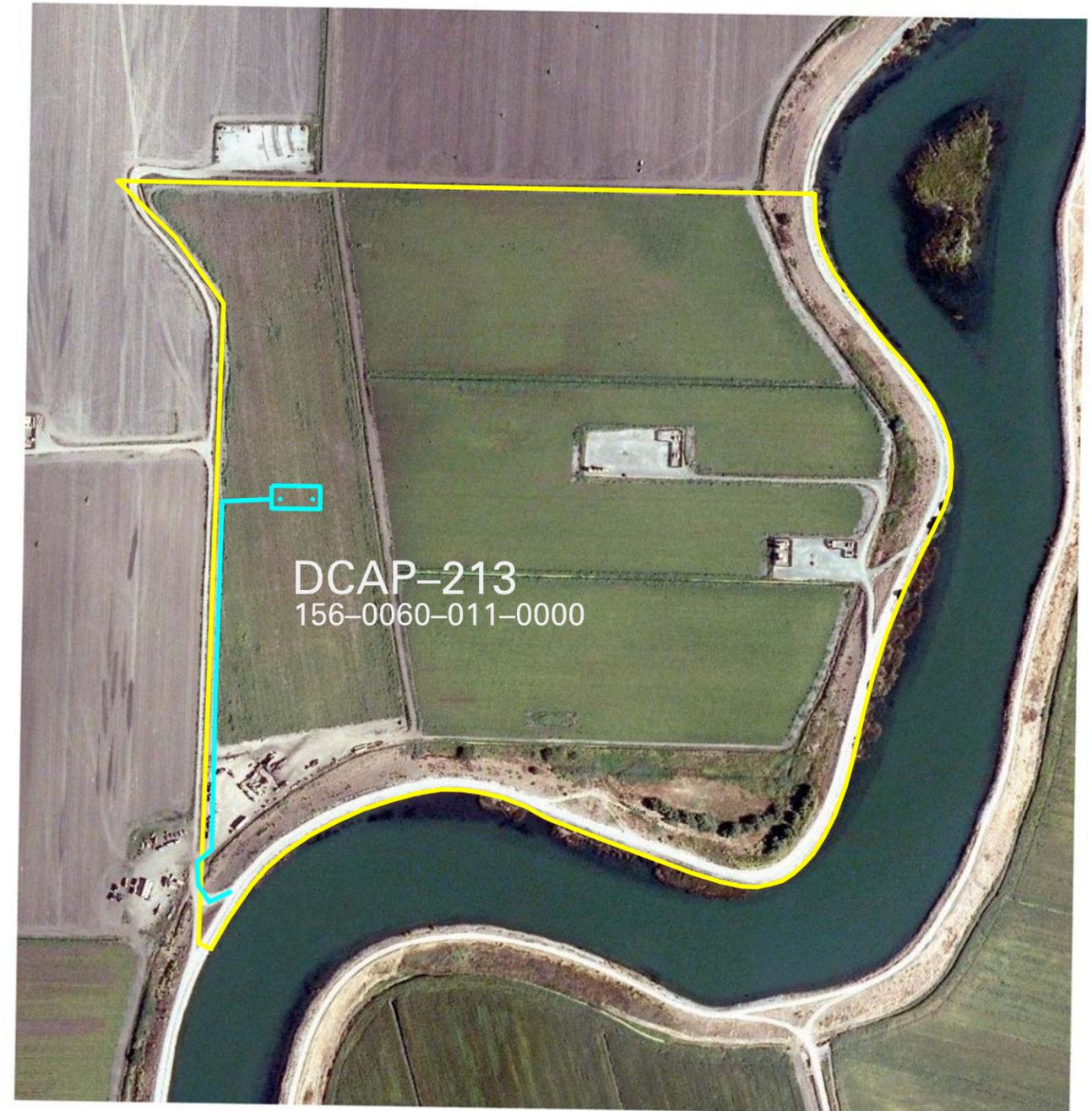
PART I

1-2. TAXES

3. ANY UNPAID AMOUNTS NOW OWING FOR MUNICIPAL SERVICES **BLANKET TITLE COMPANY EXEMPTION**
4. **RIGHTS** OF THE PUBLIC/RECLAMATION DISTRICT #563 FOR ALL ROADS, DITCHES, CANALS, AND LEVEES LYING WITHIN SAID PROPERTY.
5. ANY ADVERSE CLAIM THAT SOME PORTION OF SAID LAND HAS NOT AT ANY TIME BEEN WITHIN THE BOUNDARIES OF THE STATE OF CALIFORNIA OR COUNTY OF SACRAMENTO  
**BLANKET TITLE COMPANY EXEMPTION**
6. ANY ADVERSE CLAIM BASED HIGH WATER MARK, ACCRETION OR AVULSION **BLANKET TITLE COMPANY EXEMPTION**
7. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY **BLANKET TITLE COMPANY EXEMPTION**
8. ANY RIGHTS IN FAVOR OF THE PUBLIC **BLANKET TITLE COMPANY EXEMPTION**
9. ANY ADVERSE CLAIM BASED UPON BEING WITHIN A NAVIGABLE RIVER, SLOUGH, OR OTHER NAVIGABLE BODY OF WATER. **BLANKET TITLE COMPANY EXEMPTION**

PART II

1. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO GREAT WESTERN POWER COMPANY RECORDED: DECEMBER 29, 1911, BOOK 349 OF DEEDS, PAGE 188  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
2. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO GREAT WESTERN POWER COMPANY OF CALIFORNIA RECORDED DECEMBER 29, 1927, BOOK 166, PAGE 137, OF OFFICIAL RECORDS  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
3. EASEMENT(S) FOR GAS PIPELINE GRANTED TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED MARCH 23, 1960, BOOK 4023, PAGE 29, OF OFFICIAL RECORDS  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
- \* 4. MATTERS CONTAINED "RESOLUTION NO. 71-AP-051 RESOLUTION TO ESTABLISH AN AGRICULTURAL PRESERVE WITHIN SACRAMENTO COUNTY" BY THE COUNTY OF SACRAMENTO RECORDED FEBRUARY 25, 1971, BOOK 710225, PAGE 1030, OF OFFICIAL RECORDS.
- \* 5. COVENANTS AND RESTRICTIONS IMPOSED BY A LAND CONSERVATION CONTRACT RECORDED FEBRUARY 25, 1971, BOOK 710225, PAGE 1038, OF OFFICIAL RECORDS
- \* 6. AN OIL AND GAS LEASE  
LESSEE: TRI-VALLEY OIL & GAS CO., A CORPORATION  
RECORDED JANUARY 2, 1979, BOOK 790102, PAGE 361, OF OFFICIAL RECORDS
- \* 7. AN OIL AND GAS LEASE LESSEE: TOWNE EXPLORATION COMPANY, RECORDED AUGUST 26, 2004, BOOK 20040826, PAGE 1491, OF OFFICIAL RECORDS



**LEGEND:**  
PROPERTY LINE ————  
ACQUISITION LINE ————  
\* AFFECTS ENTIRE PARCEL

STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
**DEPARTMENT OF WATER RESOURCES**  
DIVISION OF ENGINEERING – GEODETIC BRANCH  
THIS EXHIBIT DOES NOT REPRESENT A SURVEY AND IS FOR INFORMATIONAL PURPOSES ONLY

SACRAMENTO COUNTY  
PREPARED 11/30/12

**DELTA HABITAT CONSERVATION  
AND CONVEYANCE PROGRAM  
PARCEL TITLE EXCEPTIONS**