

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

**RON No.:** 2011-24  
**Adoption Date:** November 16, 2011  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 119-0230-042-0000  
**DWR Parcel No.:** DCAP-119  
**Owner(s):** Borges Ranch, LLC  
**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 45.98-acre rectangular shaped property planed to 21.3 acres of vineyard and 24.68 acres of IFC; both areas are irrigated using the flood method with water received through the ownership's riparian rights. The subject property is improved with a residence. The subject property is located in an unincorporated area of Sacramento County, adjacent to the Sacramento River, the subject property is east of the town of Clarksburg, and north of the town of Hood. The property fronts River Road.

Current Use: Agriculture – Vineyard and 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 1-3	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 4	Sacramento County	No	Unpaid Municipal Services	None	No apparent public use implicated <sup>1</sup> . No finding required
Part I 5	Public	No (Affects entire parcel)	Public Road	None	(1) DWR will cross over easement area via access road en route to drilling site. Throughout DWR's proposed use of the condemned area, the public will continue to have transportation access on streets, roads, and highways. 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

<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.

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					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.
Part I 6	Unknown	No	Adverse claim due to accretion or avulsion	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 7	Public	No	Rights and Easements for Navigation and Fishery	None	<p>(1) DWR's proposed use will have no impact on navigation or fishery rights and easements because it is not located in an area where such uses would occur. 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</p>

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Part I 8	Public	No	Any rights in favor of the public	None	<p>(1) DWR's proposed use will not impair any rights in favor of the public. 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. 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</p>

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Part I 9	Public	No (Affects entire parcel)	Adverse claim for Navigable waters	None	<p>(1) DWR's proposed use will not impair any rights or claims regarding navigable waters because DWR's proposed use will not occur in an area where such claims would apply. Therefore, DWR's proposed use satisfies CCP 1240.510 and 1240.610.</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</p>

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					already appropriated and, therefore, satisfies CCP 1240.610.
Part I 10	Sacramento County	No (Affects entire parcel)	C.C. & R's pursuant to Land Conservation Act (Williamson Act)	None following survey	<p>(1) DWR's proposed use will not change existing land uses or force any land out of agricultural production. 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 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</p>

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Part II 1	Sacramento San Joaquin Drainage District	Yes	Easement for flood control	None	<p>(1) DWR will cross over easement area via access road en route to drilling site. Throughout DWR's proposed use the condemned area, the District will continue to have access to the levee. 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</p>

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Part II 2	General Telephone Company	Yes	Easement for communication Facilities	None	<p>(1) DWR will cross over easement area via access road en route to drilling site. DWR does not propose to condemn easements in the same area as General Telephone Company's easement for communication facilities and, in turn, will have no impact on the preexisting easement. DWR's proposed use of the access road would be consistent with the existing use of the road. 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</p>

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Part II 3	SMUD	Yes	Easement for Electrical Facilities	None	<p>(1) DWR will cross over easement area via access road en route to drilling site. DWR does not propose to condemn easements in the same area as Sacramento Municipal Utility District's easement for electrical facilities and, in turn, will have no impact on the preexisting easement. DWR's proposed use of the access road would be consistent with the existing use of the road. 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</p>

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GUARANTEE NO. CAFNT0934-0934-0010-005011201Z-FNTIC-2011-GL  
DATED SEPTEMBER 21, 2011

PART I

1-3. MISC TAXES

4. ANY **UNPAID AMOUNTS** NOW OWING FOR MUNICIPAL SERVICES

5. **RIGHTS** OF THE PUBLIC AS TO ANY PORTION OF THE LAND LYING WITHIN THE AREA COMMONLY KNOWN AS RIVER ROAD.

6. ANY **ADVERSE CLAIM** BASED UPON THE ASSERTION THAT:  
A. SAID LAND OR ANY PART THEREOF IS NOW OR AT ANY TIME HAS BEEN BELOW THE HIGH WATERMARKS OF THE SACRAMENTO RIVER  
B. SOME PORTION OF SAID LAND HAS BEEN CREATED BY ARTIFICIAL MEANS OR HAS ACCRETED TO SUCH  
C. SOME PORTION OF SAID LAND HAS BEEN BROUGHT WITHIN THE BOUNDARIES THEREOF BY AN AVULSIVE MOVEMENT OF THE SACRAMENTO RIVER

7. **RIGHTS AND EASEMENTS** FOR NAVIGATION AND FISHERY WHICH MAY EXIST OVER THAT PORTION OF SAID LAND LYING BENEATH THE WATERS OF SACRAMENTO RIVER.

8. ANY **RIGHTS** IN FAVOR OF THE PUBLIC.

9. ANY **ADVERSE CLAIM** BASED UPON THE ASSERTION THAT SAID LAND OR ANY PART THEREOF IS NOW OR AT ANY TIME HAS BEEN INCLUDED WITHIN A NAVIGABLE RIVER, SLOUGH, OR OTHER NAVIGABLE BODY OF WATER.

10. **COVENANTS AND RESTRICTIONS**, IF ANY, APPEARING IN THE PUBLIC RECORDS, IMPOSED BY ANY LAND CONSERVATION CONTRACT EXECUTED PURSUANT TO GOVERNMENT CODE SECTIONS 51200 ET SEQ. (ALSO CALLED THE WILLIAMSON ACT) AUTHORIZING THE ESTABLISHMENT OF AGRICULTURAL PRESERVES. THE USE OF THE LAND WITHIN THE PRESERVE MAY BE RESTRICTED BY THE LAND CONTRACT TO AGRICULTURAL, RECREATIONAL, OPEN-SPACE, AND OTHER COMPATIBLE USES.

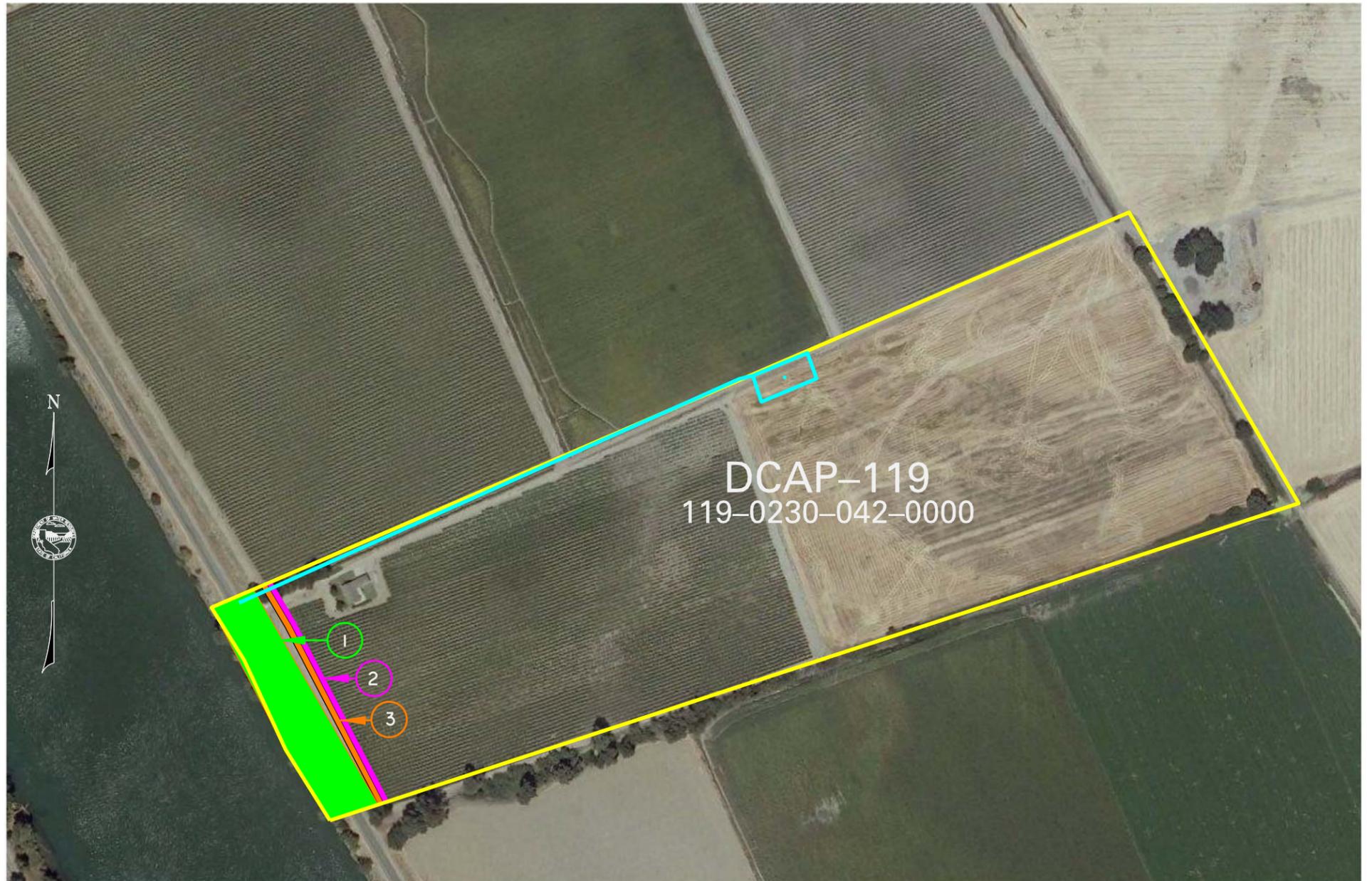
PART II

①. EASEMENT(S) FOR FLOOD CONTROL GRANTED TO SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT RECORDED SEPTEMBER 2, 1969, BOOK 690902, PAGE 44

②. EASEMENT(S) FOR COMMUNICATION FACILITIES GRANTED TO GENERAL TELEPHONE COMPANY OF CALIFORNIA, A CORPORATION RECORDED DECEMBER 4, 1969, BOOK 691204, PAGE 389

③. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO SACRAMENTO MUNICIPAL UTILITY DISTRICT, A MUNICIPAL UTILITY DISTRICT RECORDED MAY 25, 1970, BOOK 700525, PAGE 458

\*4. A DEED OF TRUST



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

PREPARED 11/29/12

SACRAMENTO COUNTY

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

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