

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

RON No.: 2012-10
Adoption Date: February 15, 2012
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 001-111-004-6; 001-111-005-3
DWR Parcel No.: DCAT-685/DCAP-532
Owner(s): Coney Island Farms, Inc.
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 an irregularly shaped parcel containing 480+ acres and improved with a large 4,940 square foot, single family residence and is currently planted to irrigated field crops. The property is located in an unincorporated area of Contra Costa County on Coney Island. Coney Island, consisting of two parcels, is a secluded private island surrounded by a slough. Situated southeast of Byron, the property is accessed from West Clifton Court Road, a local two-lane county maintained road.

Current Use: Agriculture – Irrigated Field Crops

Encumbrances – Public Use:

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
1-5	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use ¹ implicated. No finding required.
6	Public	No (Affects entire parcel)	Rights of the public in and around that portion of land lying within street, road or highway	None	(1) DWR's proposed use of the access road would be consistent with the existing use of the street, road or highway and will not impair or interfere with such use. 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 DWR's proposed use is more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.

¹ Where the phase 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
7	PG&E (Successor to Great Western Power Company)	Yes	Easement for poles	None following survey	<p>(1) DWR's proposed use will not impair or interfere with utility pole easement. DWR's proposed use may require equipment to cross pole line, but geotechnical investigations will not be conducted within or near the pole line easement. 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 the State of California as a whole. DWR's proposed use is more necessary than the public use to which the</p>

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					property is already appropriated and, therefore, satisfies CCP 1240.610.
8	Pacific Telephone and Telegraph Company	No (Unable to determine location without survey)	Easement for underground conduits	None following survey	<p>(1) DWR's proposed use will not impair or interfere with communication facilities because DWR will take the following precautions prior to initiating its investigations: (1) USA (underground utilities alert) will be contacted prior to DWR's activities to ensure no underground utilities are impacted. Furthermore, condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of existing utility lines, underground plumbing, etc. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing utilities, 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</p>

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					<p>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>
9	Unknown	No (Affects entire parcel)	Temporary easement for placement of velocity meters – Easement terminated in 1978	None	<p>(1) Because the temporary easement for velocity meters terminated in 1978, DWR's proposed use will have no impact on the preexisting easement. 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</p>

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					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.
10	Pacific Telephone and Telegraph Company	Yes	Easement for underground wires	None following survey	<p>(1) DWR's proposed use will not impair or interfere with communication facilities or rights associated therewith because DWR's proposed use will not be located within or near this easement. 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</p>

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					<p>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>
11	Department of the Army	Yes	Permit to maintain existing float and to lay a 220 volt submarine cable	None	<p>(1) DWR will cross over easement area via access road en route to drilling site. DWR's proposed use of the access road would be consistent with the existing use of the road and will not impair or interfere with the use of such road by others. DWR will navigate around the float and the 220 volt submarine cable when accessing the condemned area. 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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					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.
12	Contra Costa County	No (Affects entire parcel)	C.C. & R's pursuant to Land Conservation Act (Williamson Act)	None	No apparent public use ¹ implicated. No finding required.
13	Unknown	No (Affects entire parcel)	C.C. & R's and Easements in document	None	No apparent public use ¹ implicated. No finding required.
14	Unknown	No	Declaration regarding taking an easement in United States v. Coney Island Farms, et al., Case No. C89-1096 CAW	None	No apparent public use ¹ implicated. No finding required.
15	U.S.A.	Yes	Contract and Grant of Easement	None	(1) DWR will cross over easement area via access road en route to drilling site. DWR's proposed use of the access road would be consistent with the existing use of the road. If any facilities exist or activities are being carried out pursuant to the United States' existing

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					<p>easement/contract, DWR will navigate around such activities/facilities. 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>
16	Herb Speckman	No	Declaration regarding water quality for Herb Speckman domestic water well	None	No apparent public use ¹ implicated. No finding required
17	Contra Costa County	No (Affects entire parcel)	Revision of Eastern Contra Costa sub-regional	None	(1) DWR's proposed use will have no impact on the payment of transportation mitigation fees. Therefore, DWR's proposed use

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			transportation mitigation fees		<p>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>
18	Contra Costa County	No (Affects entire parcel)	Urgency measure for interim authorization to revise Eastern Contra Costa sub-regional transportation mitigation fees	None	<p>(1) DWR's proposed use will have no impact on the payment of transportation mitigation fees. 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</p>

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					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.
19	Contra Costa County	No (Affects entire parcel)	Resolution and Ordinance to extend Urgency ordinance Eastern Contra Costa sub-regional transportation mitigation fees	None	<p>(1) DWR's proposed use will have no impact on the effect of transportation mitigation fees. 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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20-22	Unknown	No	Rights not shown on public records	None	No apparent public use ¹ implicated. No finding required.

FIRST AMERICAN TITLE GUARANTEE NO. 0623-3624588

DATED FEBRUARY 16, 2012

1-5. MISC TAXES

6. **RIGHTS OF THE PUBLIC** IN AND TO THAT PORTION OF THE LAND LYING WITHIN STREET, ROAD OR HIGHWAY.

7. AN EASEMENT FOR POLES TO P.G.& E., RECORDED JANUARY 31, 1929 AS BOOK 167, PAGE 190.

8. AN EASEMENT FOR UNDERGROUND CONDUITS TO PACIFIC TELEPHONE AND TELEGRAPH COMPANY RECORDED JUNE 10, 1966 AS INSTRUMENT NO. 43080 IN BOOK 5138, PAGE 195.
EXACT LOCATION CANNOT BE DETERMINED

9. TEMPORARY EASEMENT AND RIGHT OF WAY FOR PLACEMENT OF VELOCITY METERS TO STATE OF CALIFORNIA RECORDED JULY 23, 1969 AS AS INSTRUMENT NO. 51986 IN BOOK 5925, PAGE 72.
THE DOES NOT AFFECT-EASEMENT TERMINATED IN 1978.

10. AN EASEMENT FOR UNDERGROUND WIRES TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, TOGETHER WITH THE RIGHT OF INGRESS / EGRESS, RECORDED OCTOBER 14, 1969 AS INSTRUMENT NO. 72451 IN BOOK 5981, PAGE 541.

11. DEPARTMENT OF THE ARMY PERMIT TO MAINTAIN AN EXISTING FLOAT AND TO LAY A 220 VOLT SUBMARINE CABLE FROM CONEY ISLAND TO THE SOUTHERN END OF QUINN ISLAND RECORDED FEBRUARY 26, 1975, AS INSTRUMENT NO. 15599 IN BOOK 7440, PAGE 475.

*12. C.C.& R'S CONTAINED IN A DOCUMENT EXECUTED PURSUANT TO THE CA. LAND CONSERVATION ACT OF 1965 (WILLIAMSON ACT) AND RECORDED FEBRUARY 15, 1977 AS INSTRUMENT NO. 19437 IN BOOK 8204, PAGE 401.

*13. C.C.& R'S AND EASEMENTS IN THE DOCUMENT RECORDED JANUARY 07, 1987 AS INSTRUMENT NO. 87-3316 IN BOOK 13373, PAGE 705.

*14. PROCEEDINGS IN THE UNITED STATES DISTRICT COURT BETWEEN USA VS CONEY ISLAND FARMS, ET AL, CASE NO.C89-1096 SAW, DECLARATION OF TAKING AN EASEMENT RECORDED JUNE 13, 1989, INSTRUMENT NO. 89-109164 IN BOOK 15128, PAGE 155.

15. CONTRACT AND GRANT OF EASEMENT TO U.S.A. RECORDED NOVEMBER 01, 1990 AS INSTRUMENT NO. 90-229173 IN BOOK 16222, PAGE 35.

16. DECLARATION REGARDING **WATER QUALITY** FOR HERB SPECKMAN DOMESTIC WATER WELL PERMIT NO. D92-0105 RECORDED NOVEMBER 10, 1992 AS INSTRUMENT NO. 92-298195 IN BOOK 18015, PAGE 919.

*17. ORDINANCE NO. 97-30 REVISION OF EASTERN CONTRA COSTA SUB-REGIONAL TRANSPORTATION MITIGATION FEES RECORDED AUGUST 06, 1997 AS INSTRUMENT NO. 1997-140390.

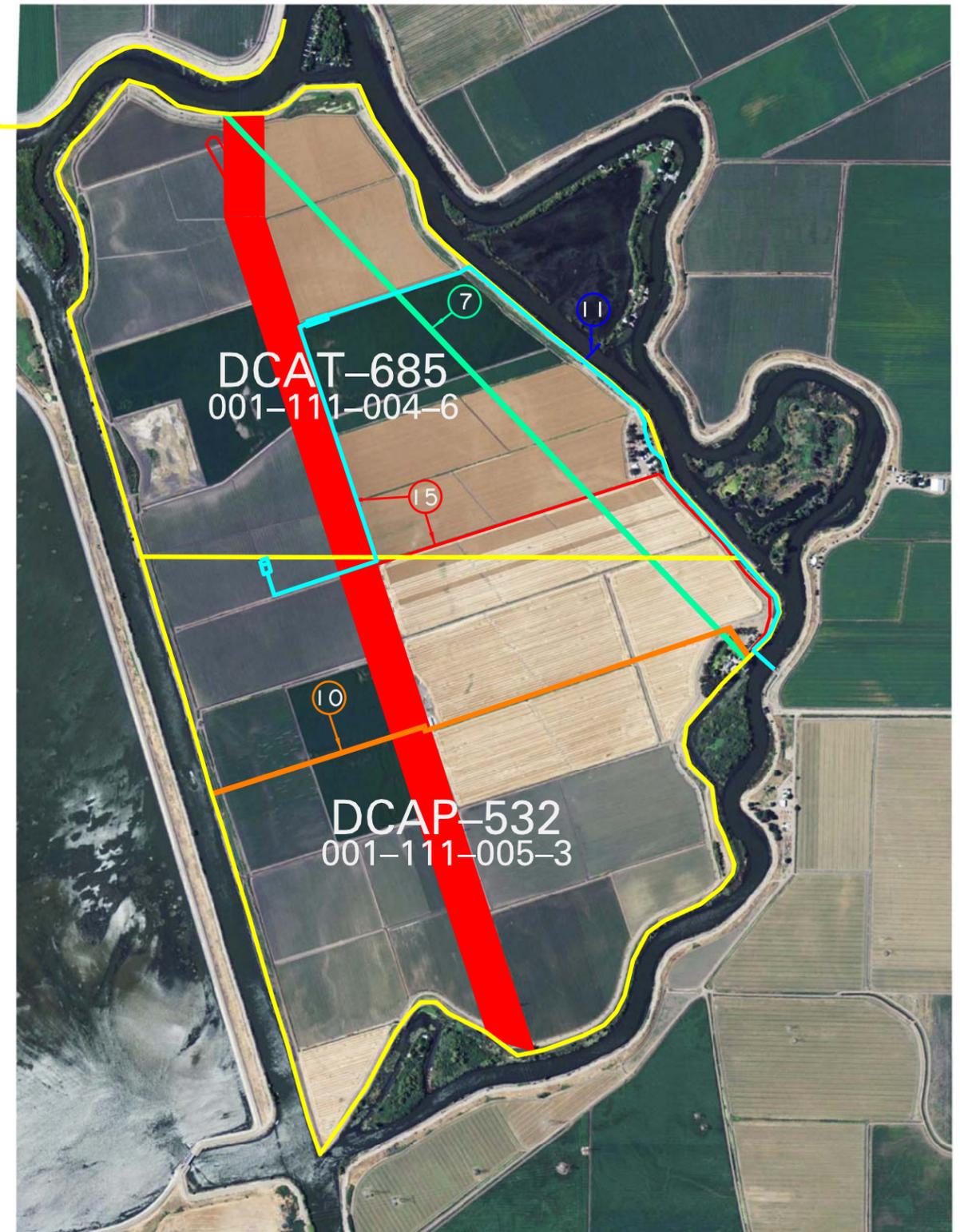
*18. ORDINANCE NO. 97-29 URGENCY MEASURE FOR INTERIM AUTHORIZATION TO REVISE EASTERN CONTRA COSTA SUB-REGIONAL TRANSPORTATION MITIGATION FEES RECORDED AUGUST 06, 1997 AS INSTRUMENT NO. 1997-140391.

*19. RESOLUTION AND ORDINANCE TO EXTEND THE URGENCY ORDINANCE FOR THE EASTERN CONTRA COSTA SUB-REGIONAL TRANSPORTATION MITIGATION FEE PROGRAM RECORDED AUGUST 18, 1997 AS INSTRUMENT NO. 1997-148355.

20-22. RIGHTS, CLAIMS OR TITLE NOT SHOWN BY THE PUBLIC RECORDS-**BLANKET TITLE COMPANY EXCEPTIONS**



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



PREPARED 11/28/12

CONTRA COSTA 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**