

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

**RON No.:** 2011-26  
**Adoption Date:** November 16, 2011  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 132-0120-095-0000  
**DWR Parcel No.:** DCAP-155  
**Owner(s):** Mahinder Singh Dhaliwal & Tawnya M. Dhaliwal  
**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 93.67-acre rectangular shaped parcel improved with a double wide mobile home and a metal shop. The subject ownership is located in an unincorporated area of Sacramento County, fronting the Sacramento River and is situated south of Freeport. The property is accessed from Highway 160, a two-lane maintained local thoroughfare connecting the Sacramento Delta communities and the Sacramento Metropolitan area.

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 1-4	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 5	Sacramento County	No (Affects entire parcel)	Unpaid utilities	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 6	Sacramento County	No (Affects entire parcel)	C.C. & R's in land conservation contract	None	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 7	State of California	No	State Route 160	None	(1) DWR's proposed use will not be located on State Route 160 or impair or interfere with the use thereof by the public. 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

<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
					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.
Part I 8	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	No apparent public use implicated <sup>1</sup> . No finding required.
Part I 9, 10, 12	Unknown	No (Affects entire parcel)	High water mark, accretion or avulsion Rights and easements for navigation and fishery	None	(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

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					<p>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 I 11	Public	No (Affects entire parcel)	Any undisclosed rights in favor of the public	None	<p>(1) DWR's proposed use will not impair any apparent 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>

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					(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.
Part II 1	PG & E (successor to Great Western Power Company)	No (Unable to determine location without survey)	Easement for electrical facilities	None following survey	(1) DWR's proposed use will not impair or interfere with use or function of electrical facilities. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of existing facilities. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing facilities, DWR will not carry out

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					<p>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 property is already appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 2	PG&E (successor to Great Western Power Company)	Yes	Easement for electrical	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. DWR will navigate around existing poles when accessing the

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					<p>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 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 3	Michael S. Simpson	No (Not on Parcel)	Easement for ingress/egress	None	Easement not located within parcel boundaries. No apparent public use. No finding required.
Part II 4	SMUD	Yes	Easement for electrical	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

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					<p>existing use of the road. DWR will navigate around existing or future poles 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 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, 6, 8	Sacramento and San Joaquin Drainage District	Yes	Flood control facilities	None	(1) DWR will cross over easement area via access road en route to drilling site. DWR's proposed use will have no impact on the easement area used for flood control purposes.

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					<p>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>
Part II 7	General Telephone	No (Unable to determine location without survey)	Electrical and Communication Facilities	None following survey	(1) DWR's proposed use will not impair or interfere with the electrical transmission or communication equipment or rights associated therewith. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of existing utility lines,

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					<p>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 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 9	Unknown	No (Unable to determine)	Dedication for development rights and public	None	(1) DWR's proposed use will not impair or interfere with the access to any streets, roads,

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		location without survey)	highway		<p>highways or the development thereof. 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>
Part II 10	Unknown	No (Unable to determine location without survey)	Notes, recitals, legends and/or conditions set forth on herein mention map	None	No apparent public use implicated <sup>1</sup> . No finding required.

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Part II 11, 12	Unknown	No (Affects entire parcel)	Deed of Trust	None	No apparent public use implicated <sup>1</sup> . No finding required.



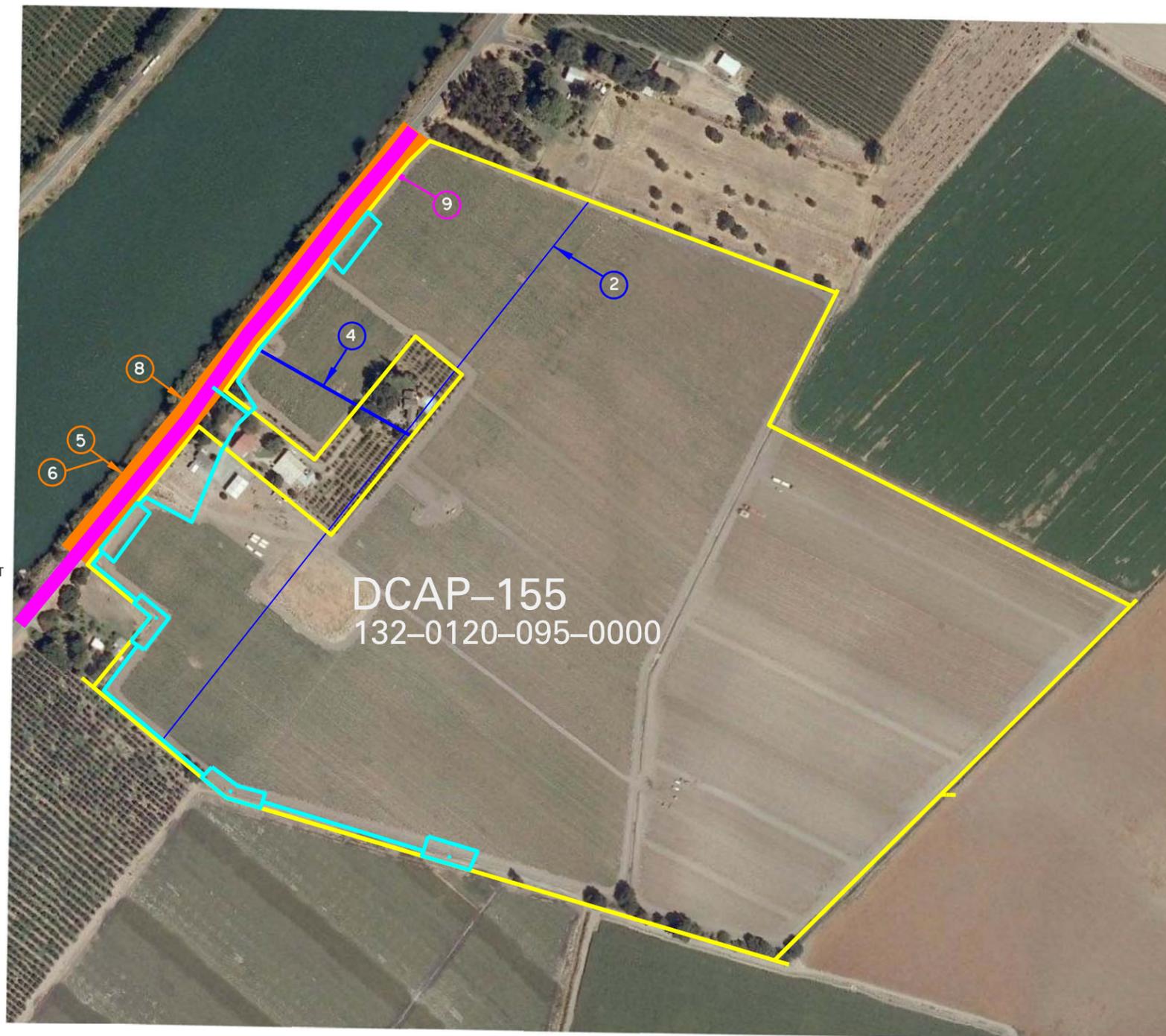
SCHEDULE B  
 PART I

- 1- 3 TAXES
- 4. TAXES AND ASSESSMENTS LEVIED BY THE RECLAMATION #813 DISTRICT.
- 5. ANY UNPAID AMOUNTS NOW OWING FOR UTILITIES **BLANKET TITLE COMPANY EXCEPTIONS**
- 6. COVENANTS AND RESTRICTIONS, IF ANY, APPEARING IN THE PUBLIC RECORDS, IMPOSED BY ANY LAND CONSERVATION CONTRACT **BLANKET TITLE COMPANY EXCEPTIONS**
- 7. RIGHTS OF THE PUBLIC AS TO ANY PORTION OF STATE HIGHWAY 160.  
**BLANKET TITLE COMPANY EXCEPTIONS**
- 8. ANY ADVERSE CLAIM THAT SOME PORTION OF SAID LAND HAS NOT BEEN WITHIN STATE OF CALIFORNIA COUNTY OF SACRAMENTO **BLANKET TITLE COMPANY EXCEPTIONS**
- 9. ANY ADVERSE CLAIM BASED UPON THE ASSERTION OF HIGH WATER MARK, AVULSION AND ACRETION.  
**BLANKET TITLE COMPANY EXCEPTIONS**
- 10. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY **BLANKET TITLE COMPANY EXCEPTIONS**
- 11. ANY RIGHTS IN FAVOR OF THE PUBLIC **BLANKET TITLE COMPANY EXCEPTIONS**
- 12. ANY ADVERSE CLAIM BASED UPON LAND WITHIN A NAVIGABLE RIVER, SLOUGH, OR OTHER NAVIGABLE BODY OF WATER.  
**BLANKET TITLE COMPANY EXCEPTIONS**

SCHEDULE B  
 PART II

- 1. EASEMENT(S) FOR ELECTRICAL GRANTED TO GREAT WESTERN POWER COMPANY, A CALIFORNIA CORPORATION RECORDED DECEMBER 14, 1912, BOOK 367 OF DEEDS, PAGE 350  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
- ② EASEMENT(S) FOR ELECTRICAL GRANTED TO GREAT WESTERN POWER COMPANY RECORDED MAY 10, 1913, BOOK 384 OF DEEDS, PAGE 76
- 3. EASEMENT(S) FOR INGRESS AND EGRESS GRANTED TO MICHAEL S. SIMPSON RECORDED NOVEMBER 20, 1958, BOOK 3638, PAGE 306, OF OFFICIAL RECORDS **NOT ON PARCEL**
- ④ EASEMENT(S) FOR ELECTRICAL GRANTED TO SACRAMENTO MUNICIPAL UTILITY DISTRICT RECORDED NOVEMBER 24, 1958, BOOK 3639, PAGE 634, OF OFFICIAL RECORDS
- ⑤ EASEMENT(S) FOR FLOOD CONTROL GRANTED TO SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT RECORDED: MAY 4, 1964, BOOK 4953, PAGE 573, OF OFFICIAL RECORDS
- ⑥ MATTERS CONTAINED IN "EASEMENT DEED" BY EDGAR MEADE SIMPSON, JR. EXECUTOR OF THE ESTATE OF NOR HAGE SIMPSON DECEASED EXECUTED BY AND BETWEEN SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT RECORDED MAY 4, 1964, BOOK 4953, PAGE 573, OF OFFICIAL RECORDS.
- 7. EASEMENT(S) FOR ELECTRICAL AND COMMUNICATION GRANTED TO GENERAL TELEPHONE COMPANY OF CALIFORNIA RECORDED AUGUST 9, 1965, BOOK 5302, PAGE 611, OF OFFICIAL RECORDS  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
- ⑧ EASEMENT(S) FOR VARIOUS PURPOSES RELATED TO LEVEE CONSTRUCTION AND MAINTENANCE GRANTED TO SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT RECORDED: AUGUST 10, 1966, BOOK 660810, PAGE 159, OF OFFICIAL RECORDS
- ⑨ EASEMENT(S) FOR THE PURPOSE(S) SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS DELINEATED OR AS OFFERED FOR DEDICATION, ON THE MAP OF SAID TRACT.  
 PURPOSE: DEVELOPMENT RIGHTS  
 AFFECTS: AS SHOWN ON MAP  
 PURPOSE: 40' FOR PUBLIC HIGHWAY  
 AFFECTS: AS SHOWN ON MAP

- \*10. NOTES, RECITALS, LEGENDS AND/OR CONDITIONS AS SET FORTH ON THE HEREIN MENTIONED MAP.
- \*11. A DEED OF TRUST
- \*12. A DEED OF TRUST



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**