

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

RON No.: 2012-07
Adoption Date: March 21, 2012
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 132-0120-001-0000
DWR Parcel No.: DCAP-143
Owner(s): Elliot Family Revocable 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 204.75-acre subject property is located in an unincorporated area of Sacramento County and is south of Clarksburg, and west of Interstate 5. The property fronts State Highway 160, which is a two-lane state maintained road that services the area. The rectangular shaped parcel contains approximately 108 acres of newly planted apple, pear and cherry orchards, a 31.35 acre mature pear orchard, a 37.36 acre mature apple orchard, 20 acres of cherry orchard root stock, and a remaining 8 acres comprised of levee encumbered ground and non-farmable land. The entire orchard is irrigated using the drip method.

Current Use: Orchard

Encumbrances – Public Use:

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
Part I 1-2	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use implicated ¹ . No finding required.
Part I 3	Sacramento County	No (Affects entire parcel)	Unpaid amounts for municipal services	None	No apparent public use implicated ¹ . No finding required
Part I 4	Public	No	Any public road	None	(1) DWR’s proposed use of the road would be consistent with the existing use of the road. 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

¹ 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
					1240.610.
Part I 5	Unknown	No (Affects entire parcel)	Adverse claim as to location of the property	None	No apparent public use implicated ¹ . No finding required.
Part I 7	Unknown	No (Affects entire parcel)	Rights and Easements for Navigation and Fishery	None	No apparent public use implicated ¹ . No finding required
Part I 8	Public	No (Affects entire parcel)	Any rights in favor of the public	None	(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. (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

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					property is already appropriated and, therefore, satisfies CCP 1240.610.
Part I 6, 9	Unknown	No	Adverse claim for accretion or avulsion or navigable waters	None	<p>(1) DWR's proposed use will not impair any rights or claims regarding accretion, avulsion, or navigation. 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 property is already</p>

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					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	No apparent public use implicated ¹ . No finding required
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.	<p>(1) DWR's proposed use will not impair or interfere with use or function of electric facilities. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify 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 with respect to maintaining the stability of the Delta's water supply and ecosystem. These efforts affect the State of California</p>

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Part II 2 – 3, 6	Sacramento and 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. DWR's proposed use will have no impact on any easements for flood control. Throughout DWR's proposed use the condemned area, the public will continue to have transportation access on streets, roads, highways and levees. 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,</p>

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Part II 4	Associated American Distributors, Inc	Yes	Easement for road purposes	None	<p>(1) DWR's proposed use of the easement area 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 more necessary than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 5	General Telephone 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 electric facilities. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify location of facilities. If these

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					<p>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 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	Unknown	Yes	Right of Entry Permit	None	<p>(1) DWR's proposed use will not impair or interfere with the Right of Entry. 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</p>

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Part II 8	SMUD	Yes	Easement for Electrical Facilities	None	DWR's proposed use will not impair or interfere with use or function of electric facilities as the existing easement is located outside of the condemned areas. No finding is required.
Part II 9	Department of Water Resources (North Delta Water Agency)	No (Affects entire parcel)	Subcontract Agreement	None following survey	(1) DWR's proposed use will not impair or interfere with the use of the rights of the agreement. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify location of the Right of Entry. 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

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					<p>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 10	Archer Exploration, Inc.	No (Affects entire parcel)	Oil and Gas Lease	None	No apparent public use implicated ¹ . No finding required.

DATED MARCH 5, 2012, 07:30A.M.
SCHEDULE B
PART I

1-2 TAXES

3. ANY UNPAID AMOUNTS FOR MUNICIPAL SERVICES

BLANKET TITLE COMPANY EXCEPTIONS

4. RIGHTS OF THE PUBLIC AS TO ANY PUBLIC ROAD.

BLANKET TITLE COMPANY EXCEPTIONS

5. ADVERSE CLAIM LAND NOT WITHIN THE STATE OF CALIFORNIA AND COUNTY OF SACRAMENTO

BLANKET TITLE COMPANY EXCEPTIONS

6. ANY ADVERSE CLAIM BASED UPON THE ASSERTION HIGH WATER MARK, AVUSION AND ACRETION

BLANKET TITLE COMPANY EXCEPTIONS

7. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY

BLANKET TITLE COMPANY EXCEPTIONS

8. ANY RIGHTS IN FAVOR OF THE PUBLIC

9. ANY ADVERSE CLAIM LAND WITHIN A NAVIGABLE RIVER, SLOUGH, OR OTHER NAVIGABLE BODY OF WATER.

BLANKET TITLE COMPANY EXCEPTIONS

10. COVENANTS AND RESTRICTIONS IMPOSED BY ANY LAND CONSERVATION CONTRACT

BLANKET TITLE COMPANY EXCEPTIONS

PART II

1. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO GREAT WESTERN POWER COMPANY, A CALIFORNIA CORPORATION
RECORDED JUNE 30, 1913, BOOK 384 OF DEEDS, PAGE 281
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE

2. EASEMENT(S) FOR THE LEVEE GRANTED TO SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT
RECORDED MAY 6, 1922, BOOK 604 OF DEEDS, PAGE 20

3. MATTERS CONTAINED IN "EASEMENT DEED" DATED MAY 6, 1922 BY M. BELLA JOHNSTON ETAL EXECUTED AND SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT RECORDED MAY 6, 1922, BOOK 604 OF DEEDS, PAGE 20

4. EASEMENT(S) FOR ROAD PURPOSES GRANTED TO ASSOCIATED AMERICAN DISTRIBUTORS, INC.
RECORDED NOVEMBER 2, 1938, BOOK 716, PAGE 132, OF OFFICIAL RECORDS

5. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO GENERAL TELEPHONE COMPANY OF CALIFORNIA
RECORDED JULY 1, 1969, BOOK 690701, PAGE 291, OF OFFICIAL RECORDS
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE

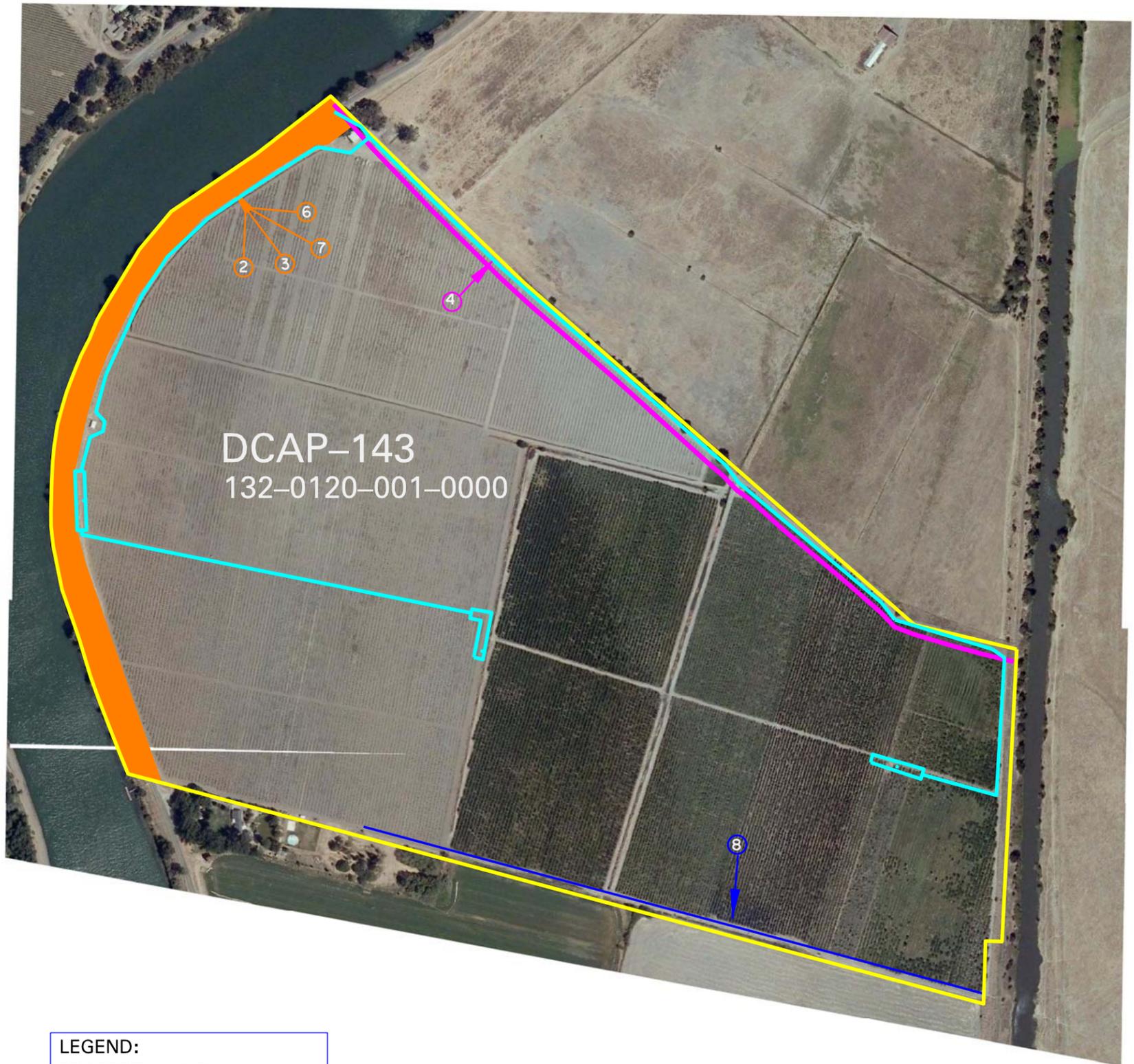
6. EASEMENT(S) FOR FLOOD CONTROL GRANTED TO SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT
RECORDED APRIL 27, 1971, BOOK 710427, PAGE 68, OF OFFICIAL RECORDS

7. TERMS AND CONDITIONS OF RIGHT OF ENTRY PERMIT, RECORDED SEPTEMBER 3, 1971, IN BOOK 710903, PAGE 408, OFFICIAL RECORDS.

8. EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO SACRAMENTO MUNICIPAL UTILITY DISTRICT
RECORDED MAY 14, 1973, BOOK 730514, PAGE 244, OF OFFICIAL RECORDS

9. MATTER CONTAINED IN "SUBCONTRACT AGREEMENT" BY DAVID J. ELLIOT JRL AND BONNIE JEANNE ELLIOT TRUSTEES OF THE ELLIOT FAMILY
* REVOCABLE TRUST AND STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES RECORDED JULY 30, 2010, BOOK 20100730, PAGE 1973, OF OFFICIAL RECORDS.

10. AN OIL AND GAS LEASE LESSEE: ARCHER EXPLORATION, INC., RECORDED SEPTEMBER 16, 2011, BOOK 20110916, PAGE 453, OF OFFICIAL RECORDS
*



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

SACRAMENTO COUNTY
PREPARED 11/29/12

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**