

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

**RON No.:** 2011-10  
**Adoption Date:** November 16, 2011  
**Project:** Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)  
**APN:** 142-0060-029-0000  
**DWR Parcel No.:** DCAP-190  
**Owner(s):** The Fahn Family, et al; Michael Fahn  
**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 located in an unincorporated area of Sacramento County, northwest of Walnut Grove. The property is a polygonal shape consisting of 768.22 acres. The property is currently planted to irrigated field crops (IFC) and is irrigated via the flood method with water received from a local water district. The property is bisected by Leary Road which is a two-lane county maintained road servicing the 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 the entire parcel)	Taxes	None	No apparent public use implicated. <sup>1</sup> No finding required.
Part I 5	Unknown	No	Easement for canals, ditches and pole lines	None following survey	(1) DWR’s proposed use will not interfere or impair easement rights as proposed use will not be located within canals, ditches or pole lines. 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 satisfied CCP 1240.510.  (2) DWR’s proposed use will enable the collection of geotechnical data to support the evaluation of potential

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

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					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 I 6	Unknown	No	Adverse claim based on avulsive movement	None	No apparent public use <sup>1</sup> implicated. No finding required.
Part I 7	Public	No (Affects entire parcel)	Rights and Easements for Navigation and Fishery	None	<p>(1) DWR's proposed use will have no impact on rights and easements for navigation or fisheries because proposed use is not located in area where fishing or navigation would be carried out. 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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Part I 8	Public	No (Affects entire parcel)	Adverse claim on land included in navigable waters	None	<p>(1) DWR's proposed use will not impair any rights or claims regarding navigation because proposed use will not be located within or in close proximity to navigable waters. 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</p>

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Part II 1	PG&E (Successor to Great Western Power Company)	Yes	Easement for Utilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with use or function of gas or electrical 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 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.
Part II 2	Pettigrew, a California Corporation	No (Affects the entire parcel)	C.C. & R's.	None	No apparent public use <sup>1</sup> implicated. No finding required
Part II 3	General Telephone Company of California	Yes	Easement for public utilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with communication facilities or rights associated therewith. 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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Part II 4	PG&E (successor to Great Western Power Company)	No (Unable to determine location without survey)	Easement for public utilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with use or function of gas or electrical 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</p>

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Part II 5	GTE	No (Unable to determine location without survey)	Easement for public utilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with communication facilities or rights associated therewith. 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</p>

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Part II 6	Benton Oil & Gas	Yes	Pipeline Easement	None following survey	<p>(1) DWR's proposed use will not impair or interfere with pipeline 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</p>

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Part II 7	Sunset Exploration, Inc.	No (Affects the entire parcel)	Unrecorded Oil and Gas lease	None	No apparent public use <sup>1</sup> implicated. No finding required.

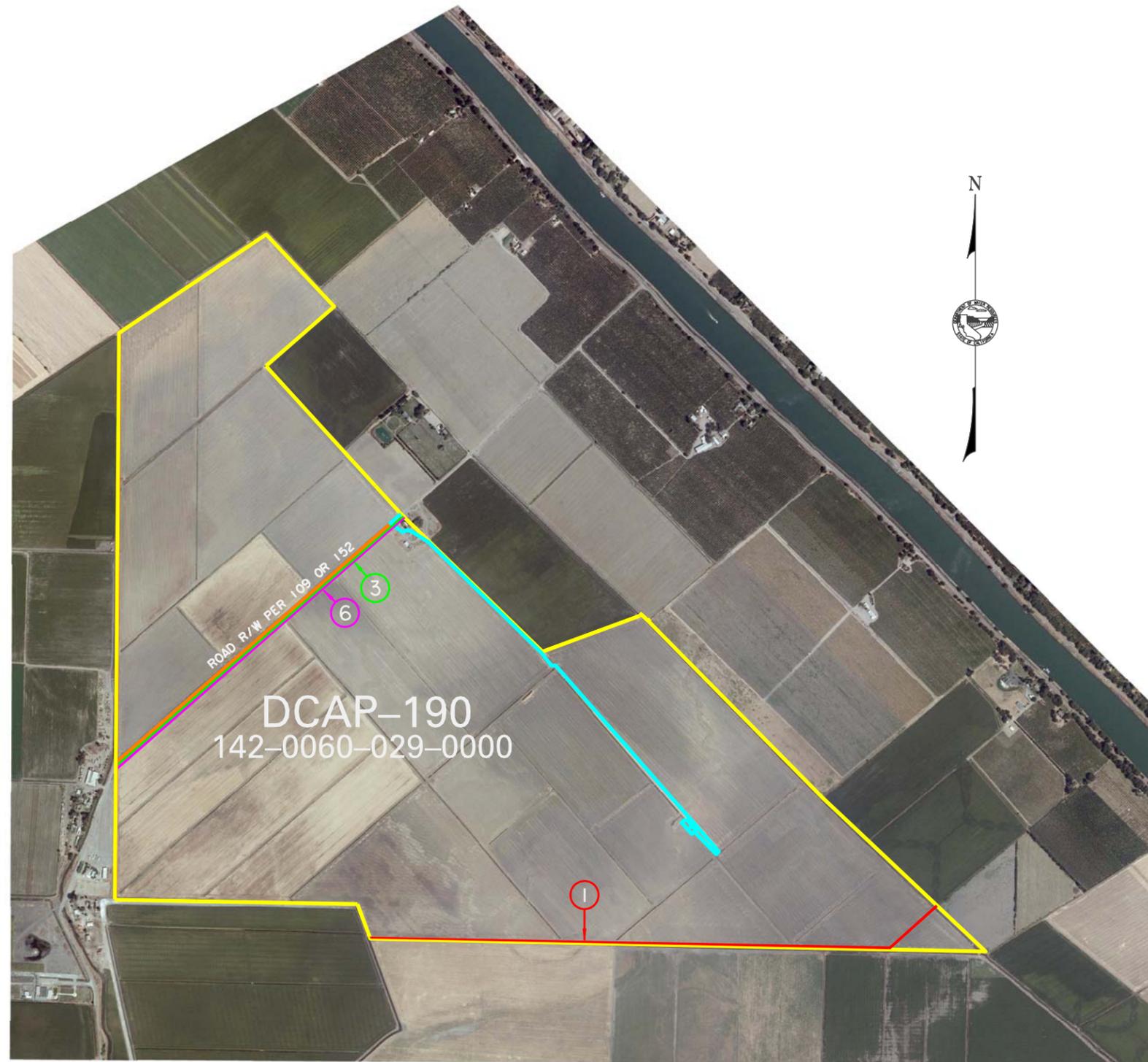
PART I

1-4. TAXES

5. **EASEMENT(S)** FOR CANALS, DITCHES AND POLE LINES AS DELINEATED OR AS OFFERED FOR DEDICATION, ON THE RECORD OF SURVEY MAP IN BOOK 21 OF SURVEYS, PAGE 45.  
**DITCHES SHOWN, BUT NO DEDICATION LANGUAGE**
6. ANY **ADVERSE CLAIM** BASED UPON THE ASSERTION THAT:
  - A. SOME PORTION OF SAID LAND HAS BEEN CREATED BY ARTIFICIAL MEANS, OR HAS ACCRETED TO SUCH PORTION SO CREATED.
  - B. SOME PORTION OF SAID LAND HAS BEEN BROUGHT WITHIN THE BOUNDARIES THEREOF BY AN AVULSIVE MOVEMENT OF UNNAMED STREAM AS SHOWN ON ASSESSORS MAP BOOK 142 PAGE 6., OR HAS BEEN FORMED BY ACCRETION TO ANY SUCH PORTION.
7. **RIGHTS AND EASEMENTS** FOR NAVIGATION AND FISHERY WHICH MAY EXIST OVER THAT PORTION OF SAID LAND LYING BENEATH THE WATERS OF UNNAMED STREAM AS SHOWN ON ASSESSORS MAP BOOK 142 PAGE 6.
8. 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.

PART II

- ① EASEMENT(S) FOR PUBLIC UTILITIES TO GREAT WESTERN POWER COMPANY RECORDED APRIL 27, 1927, BOOK 127, PAGE 227
- \*2. COVENANTS AND RESTRICTIONS EXECUTED BY DARSIE, HUTCHINSON & PETTIGREW, A CALIFORNIA CORPORATION RECORDED FEBRUARY 25, 1971, BOOK 71-02-25, PAGE 407, AFFECTS ALL OF SAID LAND.
- ③ EASEMENT(S) FOR PUBLIC UTILITIES TO GENERAL TELEPHONE COMPANY OF CALIFORNIA RECORDED FEBRUARY 9, 1972, BOOK 720209, PAGE 224
4. EASEMENT(S) FOR PUBLIC UTILITIES TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED MAY 3, 1984, BOOK 840503, PAGE 963  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
5. EASEMENT(S) FOR PUBLIC UTILITIES TO GTE CALIFORNIA INC. RECORDED JANUARY 13, 1989, BOOK 890113, PAGE 1689  
**UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
- ⑥ EASEMENT(S) FOR PIPELINE TO BENTON OIL AND GAS COMPANY RECORDED FEBRUARY 24, 1992, BOOK 19920224, PAGE 1660
- \*7. AN UNRECORDED OIL AND GAS LEASE BETWEEN SACRAMENTO BAG CAPITAL COMPANY, A CALIFORNIA CORPORATION, FORMERLY SACRAMENTO BAG MANUFACTURING COMPANY AND SUNSET EXPLORATION, INC., A CA. CORPORATION RECORDED APRIL 14, 1999, BOOK 19990414, PAGE 1594



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

PREPARED 02/26/13

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

# DELTA HABITAT CONSERVATION AND CONVEYANCE PROGRAM PARCEL TITLE EXCEPTIONS