

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

RON No.: 2012-03
Adoption Date: February 15, 2012
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 156-0010-010-0000
DWR Parcel No.: DCAP-287
Owner(s): Norman J. & Katherine Marks 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 subject property is a 40± acre rectangular shaped parcel currently improved with a two-story residence, a detached garage with possible in-law quarters, solar panels, an agricultural support building, and is currently planted with a cherry orchard. The property is located in an unincorporated area of Sacramento County, adjacent to the Sacramento River, and west of Walnut Grove. The property fronts Isleton Road, a county maintained two-lane asphalt road servicing the area.

Current Use: Agriculture – 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
1-3	Various	No (Affects entire parcel)	Misc. taxes	None	No apparent public use implicated ¹ . No finding required.
4-5	Unknown	No (Affects entire parcel)	Delinquent utilities	None	No apparent public use implicated ¹ . No finding required.
6	Public	Yes	Rights of the public in and around that portion of land lying within street, road or highway	None	(1) DWR's proposed use will not impair any rights in favor of the public. Throughout DWR's proposed use 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

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
					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.
7	RD 556	Yes	Rights to ditches, canals, levees and road.	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 rights to levees. Throughout DWR's proposed use of the condemned area the RD will continue to have access to ditches, canals, levees and 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</p>

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					than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.
8	RD 556	Yes	Rights to ditches, canals, levees and road.	None	<p>(1) DWR will utilize the majority of the easement area for access purposes and a small portion of the easement area for geotechnical activities. DWR's proposed use will have no impact on any rights to levees. Throughout DWR's proposed use of the condemned area the RD will continue to have access to ditches, canals, levees and 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</p>

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					and, therefore, satisfies CCP 1240.610.
9	PG&E (Successor to Great Western Power Company)	No (Unable to determine location without survey)	Easement for poles	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 property is already appropriated</p>

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10	Sacramento and San Joaquin Drainage District	Yes	Easement for levee	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 rights to levees. Throughout DWR's proposed use of the condemned area the RD will continue to have access to 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, satisfies CCP 1240.610.</p>

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11	Sacramento and San Joaquin Drainage District	No	Waiver of Claims	None	No apparent public use implicated ¹ . No finding required.
12	Unknown	No (Affects entire parcel)	Oil & gas lease	None	No apparent public use implicated ¹ . No finding required
13	General Telephone Company of California	No (Unable to determine location without survey)	Easement for poles	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 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.
14	Unknown	No (Affects entire parcel)	Oil & gas lease	None	No apparent public use implicated ¹ . No finding required.
15	Unknown	No	Declaration of Land restrictions for barns and garages	None	No apparent public use implicated ¹ . No findings required.
16	Unknown	No (Affects entire parcel)	Subcontract Agreement	None	No apparent public use implicated ¹ . No findings required.

LITIGATION GUARANTEE 0623-3624604
DATED FEBRUARY 16, 2012

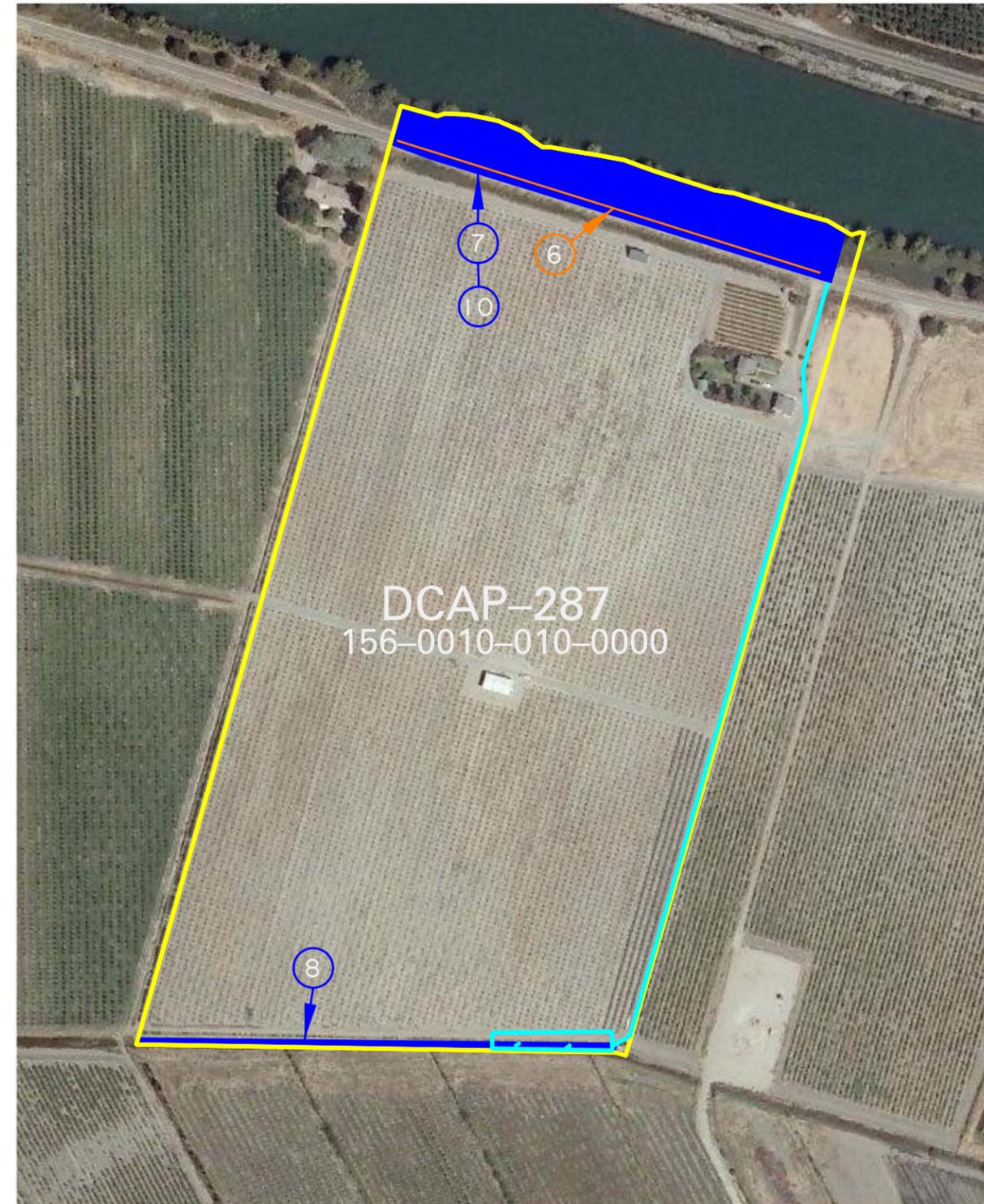
FIRST AMERICAN TITLE COMPANY

1-3. **TAXES**

4-5. **LIENS** & ANY UNPAID AMOUNTS FOR DELINQUENT UTILITIES

- 6. RIGHTS OF THE PUBLIC IN AND TO THAT PORTION OF THE LAND LYING WITHIN ISLETON ROAD.
- 7. AN EASEMENT FOR CONSTRUCTION, MAINTENANCE, REPAIR OF A LEVEE AND INCIDENTAL PURPOSES, RECORDED JULY 08, 1902 IN BOOK 183 OF DEEDS, PAGE 526.
IN FAVOR OF: RECLAMATION DISTRICT NO. 556
AFFECTS: NORTHERLY 75 FEET
- 8. AN EASEMENT FOR CONSTRUCTION, MAINTENANCE, REPAIR OF A CANAL AND INCIDENTAL PURPOSES, RECORDED JULY 08, 1902 IN BOOK 183 OF DEEDS, PAGE 526.
IN FAVOR OF: RECLAMATION DISTRICT NO. 556
AFFECTS: SOUTHERLY 15 FEET
- 9. AN EASEMENT FOR POLES, WIRES, ASSOCIATED FIXTURES FOR THE TRANSMISSION, DISTRIBUTION OF ELECTRICITY AND INCIDENTAL PURPOSES, RECORDED MAY 29, 1916 IN BOOK 448 OF DEEDS, PAGE 138.
IN FAVOR OF: GREAT WESTERN POWER COMPANY, A CALIFORNIA CORP
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE
- 10. AN EASEMENT FOR CONSTRUCTION, REPAIR, MAINTENANCE OF A LEVEE AND INCIDENTAL PURPOSES, RECORDED SEPTEMBER 29, 1947 AS BOOK 1400, PAGE 267.
IN FAVOR OF: SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, A PUBLIC AGENCY
- 11. A WAIVER OF ANY CLAIMS FOR DAMAGES BY REASON OF THE LOCATION, ESTABLISHMENT AND CONSTRUCTION, OF A CONTIGUOUS LEVEE, AS CONTAINED IN THE DOCUMENT RECORDED SEPTEMBER 29, 1947 AS BOOK 1400, PAGE 267. **AS MENTIONED ABOVE**
- *12. AN OIL AND GAS LEASE
- 13. AN EASEMENT FOR POLES, CABLES AND ASSOCIATED FIXTURES FOR THE TRANSMISSION OF ELECTRIC ENERGY AND INCIDENTAL PURPOSES, RECORDED JUNE 19, 1986 AS BOOK 860613, PAGE 1390
IN FAVOR OF: GENERAL TELEPHONE COMPANY OF CALIFORNIA, A CORP.

A POLE LINE EASEMENT IN FAVOR OF PACIFIC GAS AND ELECTRIC COMPANY WAS DISCLOSED THEREIN.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE
- *14. A SUBSURFACE OIL AND GAS LEASE
- 15. TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "DECLARATION OF LAND RESTRICTION FOR BARN AND GARAGES PURSUANT TO 906-04(C)" RECORDED FEBRUARY 26, 2010 AS BOOK 20100226, PAGE 887.
- *16. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "SUBCONTRACT AGREEMENT" RECORDED APRIL 19, 2010 AS BOOK 20100419, PAGE 992.



PREPARED 11/28/12

SACRAMENTO COUNTY

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

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