

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

RON No.: 2011-11
Adoption Date: November 16, 2011
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 156-0030-018-0000
DWR Parcel No.: DCAP-207
Owner(s): Steve Mello and Ann Marie Mello, Trustees of the Steve and Ann Mello Family 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: Located in an unincorporated area of Sacramento County, the subject property is adjacent to the Mokelumne River and is south of Walnut Grove. The property is a polygonal shape consisting of 355.99 acres. Currently, the property is planted to irrigated field crops and is irrigated via the flood method. The property is along Tyler Island Road which is a two-lane county maintained road servicing the area.

Current Use: Agriculture – Irrigated Field Crop

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 1-4	Unknown	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use ¹ implicated. No finding required.
Part I 5	Unknown	No (Affects entire parcel)	Unpaid Municipal Services	None	No apparent public use ¹ implicated. No finding required.
Part I 6	Public	No (Affects the entire parcel)	Public Road	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. 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

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
					<p>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 7	Unknown	No	Adverse Claim of land not being with the boundaries of the county or State	None following survey	<p>(1) DWR's proposed use will not impair or interfere with use or function use of land. 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</p>

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					than the public use to which the property is already appropriated and, therefore, satisfies CCP 1240.610.
Part I 8	Unknown	No	Adverse Claim of land being created by avulsive movement	None	No apparent public use ¹ implicated. No finding required.
Part I 9	Public	No (Affects entire parcel)	Rights and Easements for navigation and fisheries	None	<p>(1) DWR's proposed use will have no impact on rights and easements for navigation or fisheries. 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</p>

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 10	Public	No (Affects entire parcel)	Rights in favor of the public	None	<p>(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.</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	Adverse claim on included in	None	(1) DWR's proposed use will not impair any rights or claims regarding navigation.

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
		parcel)	navigable waters		<p>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 appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 1	PG&E (successor to Great Western Power Company)	No (Affects the entire parcel)	Utility Easement	None following survey	(1) DWR's proposed use will not impair or interfere with transmission of gas or electrical rights associated therewith.

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					<p>Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to confirm location of facilities. 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 appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 2	Unknown	No (Affects the entire parcel)	Oil & Gas Lease	None	No apparent public use ¹ implicated. No finding required

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
Part II 3	PG&E (Successor to Great Western Power Company)	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 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>

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
Part II 4	Sacramento County	No (Affects the entire parcel)	Agricultural preserve	None following survey	<p>(1) DWR's proposed use will not change existing land uses. 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 appropriated and, therefore, satisfies CCP 1240.610.</p>
Part II 5	California Government	No (Affects the entire	CC&R Land Conservation Contract	None	No apparent public use ¹ implicated. No finding required

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
		parcel)			
Part II 6	General Telephone Company of California	Yes	Facility Easement	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 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>

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					and, therefore, satisfies CCP 1240.610.
Part II 7	Josephine Jensen	No	Hold Harmless Agreement	None	No apparent public use ¹ implicated. No finding required.
Part II 8	NGC Energy Co.	No (Affects entire Parcel)	Energy Lease	None	No apparent public use ¹ implicated. No finding required.
Part II 9	Enron Oil & Gas	No (Unable to determine location without survey)	Pipeline Easement	None following survey	<p>(1) DWR's proposed use will not impair or interfere with pipeline easement, or pipeline, if any. 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</p>

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.
Part II 10	Enron Oil & Gas	No (Unable to determine location without survey)	Pipeline right of way	None following survey	<p>(1) DWR's proposed use will not impair or interfere with transmission of oil or gas or rights associated therewith. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to confirm location of facilities. 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</p>

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.
Part II 11	Three Rivers Pipeline, LLC	No (Unable to determine location without survey)	Easement for gas pipeline	None following survey	<p>(1) DWR's proposed use will not impair or interfere with transmission of gas or rights associated therewith or pipeline, if any. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to confirm location of facilities. 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</p>

Number Listed on Map	Interest Holder	Depicted on Map	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					<p>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>

LITIGATION GUARANTEE CAFNT0934-0934-0010-005011237Z-FNTIC-2011-GL
DATED SEPT 21, 2011

FIDELITY NATIONAL TITLE COMPANY

PART I

1-4. TAXES

5. ANY UNPAID AMOUNTS NOW OWING FOR MUNICIPAL SERVICES

6. RIGHTS OF THE PUBLIC AS TO ANY PORTION OF THE LAND LYING WITHIN THE AREA COMMONLY KNOWN AS TYLER ISLAND ROAD.

7. ANY ADVERSE CLAIM THAT SOME PORTION OF SAID LAND HAS NOT AT ANY TIME BEEN WITHIN THE BOUNDARIES OF THE COUNTY OF SACRAMENTO STATE OF CALIFORNIA.

8. ANY ADVERSE CLAIM BASED UPON THE ASSERTION THAT:
A. SAID LAND OR ANY PART THEREOF IS NOW OR AT ANY TIME HAS BEEN BELOW THE HIGHEST OF THE HIGH WATERMARKS OF THE MOKELUMNE RIVER, IN THE EVENT THE BOUNDARY OF SAID RIVER HAS BEEN ARTIFICIALLY RAISED OR IS NOW OR AT ANY TIME HAS BEEN BELOW THE HIGH WATERMARK, IF SAID RIVER IS IN ITS NATURAL STATE;
B. SOME PORTION OF SAID LAND HAS BEEN CREATED BY ARTIFICIAL MEANS OR HAS ACCRETED TO SUCH PORTION SO CREATED.
C. SOME PORTION OF SAID LAND HAS BEEN BROUGHT WITHIN THE BOUNDARIES THEREOF BY AN AVULSIVE MOVEMENT OF THE MOKELUMNE RIVER, OR HAS BEEN FORMED BY ACCRETION TO ANY SUCH PORTION.

9. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY WHICH MAY EXIST OVER THAT PORTION OF SAID LAND LYING BENEATH THE WATERS OF MOKELUMNE RIVER.

10. ANY RIGHTS IN FAVOR OF THE PUBLIC WHICH MAY EXIST ON SAID LAND IF SAID LAND OR PORTIONS THEREOF ARE OR WERE AT ANY TIME USED BY THE PUBLIC.

11. 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 RIGHT OF WAY FOR TRANSMISSION AND DISTRIBUTION OF ELECTRICITY WITH POLES AND WIRES AND TELEPHONE PURPOSES TO GREAT WESTERN POWER CO. RECORDED DECEMBER 7, 1916, BOOK 457, PAGE 338.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE

*2. OIL AND GAS LEASE

3. EASEMENT(S) FOR PIPE LINES TO PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION RECORDED JULY 24, 1956, INSTRUMENT NO. 53924, BOOK 3124, PAGE 382.

*4. RESOLUTION NO. 71-AP056 TO ESTABLISH AN AGRICULTURAL PRESERVE EXECUTED BY COUNTY OF SACRAMENTO RECORDED FEBRUARY 25, 1971, INSTRUMENT NO. 14202, BOOK 710225, PAGE 635.

*5. COVENANTS AND RESTRICTIONS IMPOSED BY A LAND CONSERVATION CONTRACT EXECUTED PURSUANT TO SECTION 51200 ET SEQ. CALIFORNIA GOVERNMENT CODE. AND EXECUTED BY JOSEPHINE H. JENSEN RECORDED FEBRUARY 25, 1971, INSTRUMENT NO. 14203, BOOK 710225, PAGE 640.

6. EASEMENT(S) FOR FACILITIES GRANTED TO GENERAL TELEPHONE COMPANY OF CALIFORNIA, A CORPORATION RECORDED DECEMBER 31, 1975, INSTRUMENT NO. 133504, BOOK 751231, PAGE 1049.
AFFECTS THE SOUTHERLY PORTION AND OTHER LAND WHICH CAN NOT BE VERIFIED WITHOUT A FIELD SURVEY

7. HOLD HARMLESS AGREEMENT EXECUTED BY AND BETWEEN COUNTY OF SACRAMENTO, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA AND JOSEPHINE JENSEN RECORDED APRIL 3, 1987, INSTRUMENT NO. 94478, BOOK 870403, PAGE 1378. DOCUMENT REFERS TO A MOBILE HOME ON SITE.

*8. NGC ENERGY CO. LEASE

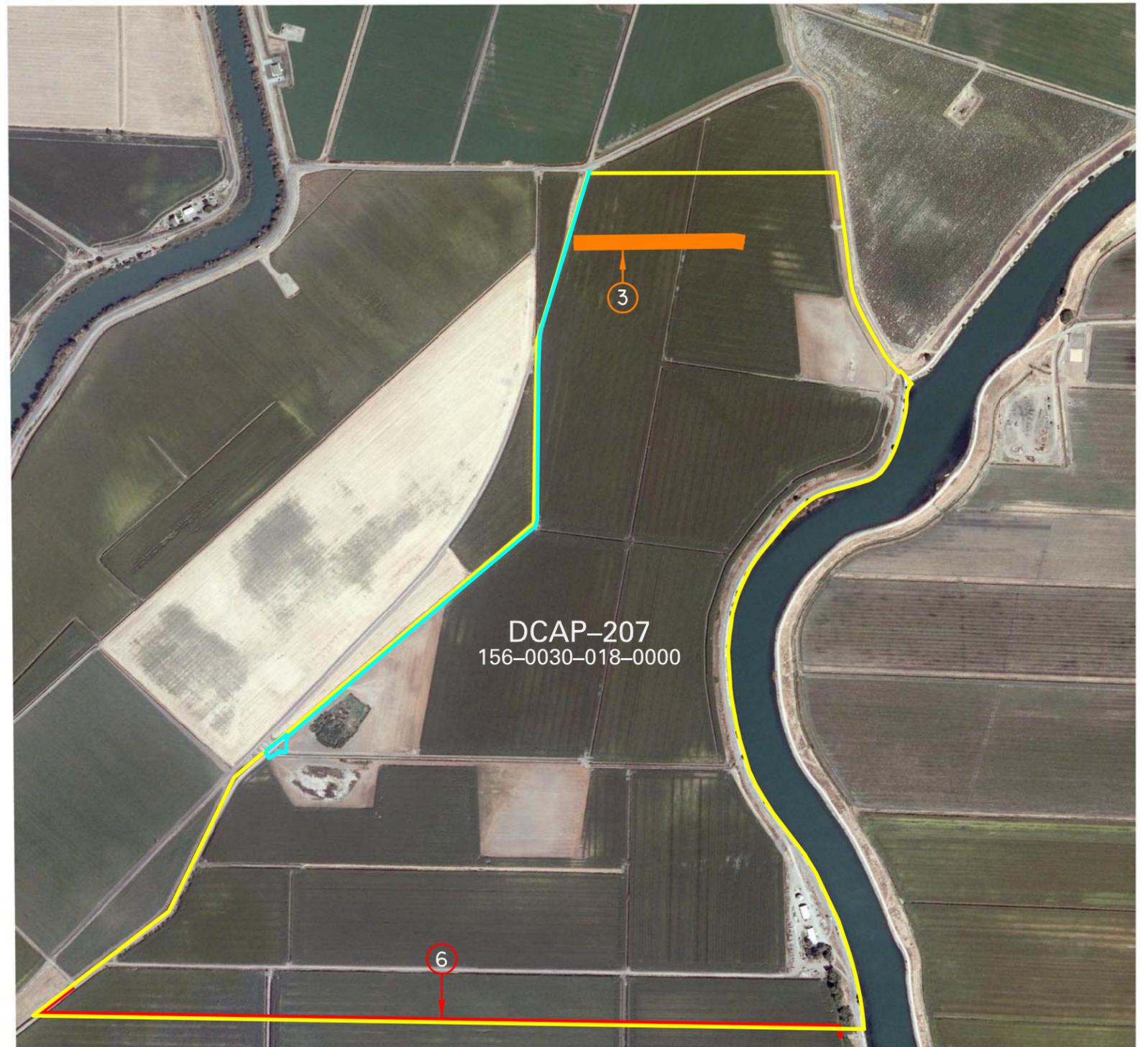
9. EASEMENT(S) FOR PIPELINE RIGHT-OF-WAY GRANTED TO ENRON OIL & GAS COMPANY RECORDED JANUARY 8, 1999, BOOK 19990108, PAGE 1044.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE

10. PIPELINE RIGHT-OF-WAY AND EASEMENT AGREEMENT EXECUTED BY AND BETWEEN JOSEPHINE JENSEN AND ENRON OIL & GAS COMPANY RECORDED JANUARY 8, 1999, BOOK 19990108, PAGE 1044.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE

11. EASEMENT(S) FOR NATURAL GAS PIPELINE TO THREE RIVERS PIPELINE, LLC, RECORDED JUNE 19, 2007, BOOK 20070619, PAGE 994.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE



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



PREPARED 11/29/12

SACRAMENTO 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