

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

RON No.: 2011-12
Adoption Date: November 16, 2011
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 156-0050-005-0000
DWR Parcel No.: DCAP-210
Owner(s): River Maid Land Company, Attn: Chiles R. Wilson, Agent of Service
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 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 and is southwest of Walnut Grove and east of Isleton. The property is along Tyler Island Road which is a two-lane county maintained road servicing the area. Consisting of 290.19-acres, the property is polygonal in shape. Currently, the property is planted to irrigated field crops and is irrigated via the flood method.

Current Use: Agriculture – Irrigated Field Crops

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 1 1-5	Various	No (Affects entire parcel)	Misc. Taxes	None	No apparent public use ¹ implicated. No finding required.
Part I 6	Unknown	No	Adverse Claim based accretion by an avulsive movement	None	No apparent public use ¹ implicated. No finding required.
Part I 7	Public	No (Affects entire parcel)	Rights and Easement for navigation and Fisheries	None	(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. 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

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
					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	Public	No (Affects entire parcel)	Any 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>

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
Part I 9	Public	No (Affects entire parcel)	Adverse claim on included in navigable waters	None following survey	<p>(1) DWR's proposed use will not impair any rights or claims regarding 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 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 I 10	Public	No (Affects entire parcel)	Public Road	None	<p>(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.</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 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	RD 563	No (Affects levees)	Rights to Levees within property	None	<p>(1) 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>

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					<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 (Unable to determine location without survey)	Electrical facilities easement	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>

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					<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	Calaveras Cement Company	Yes	Easement for transmission of gas	None following survey	<p>(1) DWR's proposed use will not impair or interfere with transmission of 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>

Number Listed on Map	Interest Holder	Depicted on Map?	Description	DWR Impacts	Recommended Determination on CCP 1240.510 and 1240.610
					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 3	General Telephone Company of California	No	Easement for Communication Facilities	None	Easement not located within parcel boundaries. No finding required.
Part II 4	Russell G. Graham, Jr.	No (Affects entire parcel)	C.C. & R's un-named	None	No apparent public use ¹ implicated. No finding required.
Part II 5	Enron Oil & Gas Co.	No (Affects entire parcel)	Lease	None	No apparent public use ¹ implicated. No finding required.
Part II 6	Unknown	No (Affects entire parcel)	Deed of Trust	None	No apparent public use ¹ implicated. No finding required.

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Part II 7	Unknown	No (Affects entire parcel)	Lease assignment of rights	None	No apparent public use ¹ implicated. No finding required.
Part II 8	Three Rivers Pipelines, LLC	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.</p>

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					and, therefore, satisfies CCP 1240.610.
Part II 9	Stream Gas, LL.	No (Affects entire parcel)	Oil & Gas Lease	None	No apparent public use ¹ implicated. No finding required.
Part II 10	Delta Habitat Land Company	No	Resolution accepting development rights	None	Easement not located within parcel boundaries. No finding required.

LITIGATION GUARANTEE
 CAFNT0934-0934-0010-005011238Z-FNTIC-2011-GL
 DATED SEPT 22, 2011

FIDELITY NATIONAL TITLE COMPANY

PART I

1-5. TAXES, ASSESSMENTS, ANY UNPAID AMOUNTS

6. ANY **ADVERSE CLAIM** BASED UPON THE ASSERTION THAT:
 A. SOME PORTION OF SAID LAND IS TIDE OR SUBMERGED LAND, OR 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 THE BROAD SLOUGH AND MOKELUMNE RIVER 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 BROAD SLOUGH AND MOKELUMNE RIVER.
8. ANY **RIGHTS** IN FAVOR OF THE PUBLIC
9. 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.
10. **RIGHTS** OF THE PUBLIC AS TO ANY PORTION OF THE LAND LYING WITHIN THE AREA COMMONLY KNOWN AS TYLER ISLAND ROAD.
11. **RIGHTS** OF RECLAMATION DISTRICT NO. 563 AS TO LEVEE LYING WITHIN THE HEREIN DESCRIBED PROPERTY.

PART II

1. EASEMENT(S) FOR ELECTRICAL FACILITIES TO GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CA CORP RECORDED DECEMBER 29, 1927, BOOK 166, PAGE 137. **UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE**
2. EASEMENT(S) FOR TRANSMISSION OF GAS OR OTHER SUBSTANCES TO CALAVERAS CEMENT COMPANY, A CORPORATION RECORDED APRIL 3, 1940, BOOK 810, PAGE 212. AFFECTS THE SOUTHERLY 16.5 FEET
3. EASEMENT(S) FOR COMMUNICATION FACILITIES GENERAL TELEPHONE COMPANY OF CALIFORNIA, A CORPORATION RECORDED JULY 1, 1969, BOOK 690701, PAGE 270. **DOES NOT AFFECT THIS PROPERTY**
- *4. COVENANTS AND RESTRICTIONS EXECUTED BY RUSSELL G. GRAHAM, JR., ET AL RECORDED FEBRUARY 25, 1971, BOOK 710225, PAGE 463.
- *5. AN UNRECORDED OIL AND GAS LEASE BETWEEN MARILYN COOKE LAWSON, ALIAS, ET AL AND ENRON OIL & GAS CO., A DELAWARE CORP. RECORDED JANUARY 30, 1996, BOOK 960130, PAGE 1119.
- *6. DEED OF TRUST TO SECURE INDEBTEDNESS
- *7. AN ASSIGNMENT OF CERTAIN OF THE LESSOR'S INTERESTS UNDER LEASES REFERRED TO THEREIN.
8. EASEMENT(S) FOR NATURAL GAS PIPELINE TO THREE RIVERS PIPELINES, LLC RECORDED JUNE 19, 2007, BOOK 20070619, PAGE 1001.
- *9. AN UNRECORDED OIL AND GAS LEASE BETWEEN JAIME RODRIGUEZ AND RAMONA RODRIGUEZ AND STREAM GAS, LLC, AN OKLAHOMA LLC RECORDED JULY 26, 2007, BOOK 20070726, PAGE 916.
10. RESOLUTION NO. 2009-0783 ACCEPTING DEVELOPMENT RIGHTS EXECUTED BY AND BETWEEN THE BOARD OF SUPERVISORS OF THE COUNTY OF SAC AND DELTA HABITAT LAND COMPANY, LLC RECORDED OCTOBER 27, 2009, BOOK 20091027, PAGE 46. **DOES NOT AFFECT THIS PROPERTY**



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

PREPARED 11/28/12

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

SACRAMENTO COUNTY

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