

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

RON No.: 2011-13
Adoption Date: November 16, 2011
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 119-0230-044-0000
DWR Parcel No.: DCAP-222
Owner(s): Cynthia Kay Seebeck, Trustee of Family Trust A, The William Garrett Seebeck Family Trust, Under the Seebeck Family Trust Dated September 20, 1999; and Cynthia Kay Seebeck, Melvin E. Seebeck, Jr. and Lois Arlene Seebeck, William G. Seebeck
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 58.35-acre rectangular shaped parcel improved with a single-wide mobile home, a double-wide mobile home and two large metal agriculture shop buildings. The property is located in an unincorporated area of Sacramento County, along the Sacramento River, and is located south of Freeport. The property is accessed from Highway 160, a two-lane state maintained local thoroughfare connecting the Sacramento Delta communities and the Sacramento Metropolitan 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
Part I 1-3	Various	No (Affects entire parcel)	Misc. taxes	None	No apparent public use ¹ implicated. No finding required.
Part I 4	Unknown	No (Affects entire parcel)	Unpaid Utilities	None	No apparent public use ¹ implicated. No finding required.
Part I 5	Unknown	No (Affects entire parcel)	Adverse Claim due to avulsive movement	None	No apparent public use ¹ implicated. No finding required.
Part I 6	Public	No (Affects entire parcel)	Navigation & fishery in the waters of Sacramento River	None	(1) DWR's proposed use will have no impact on rights and easements for navigation or fisheries because DWR's proposed use is not located in or near areas where such rights would be exercised. 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

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.

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					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 7	Public	No (Affects entire parcel)	Undisclosed public use of said land	None	<p>(1) DWR's proposed use will not impair any rights, if any, in favor of the public for undisclosed uses. 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</p>

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Part I 8	RD 744	No (Affects entire parcel)	Rights to road/ditches/canals and levees on property	Potential for temporary short term obstruction of access to levee.	<p>(1) DWR's proposed use will not unreasonably impair or interfere with RD 744's access to roads, ditches, canals or levees. The nature of DWR's proposed use is temporary and of short duration. To the extent DWR or its contractors will be operating in, on or near said roads, ditches, canals or levees DWR will work cooperatively with RD 744 to resolve any access related issues that may arise. 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</p>

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Part II 1	Sacramento County	Yes	Road Easement	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. DWR's proposed use of the road for access will not unreasonably affect others ability to utilize access 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</p>

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Part II 2	PG&E (Successor to Great Western Power Company)	Yes	Utilities 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> <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</p>

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Part II 3	Delta Telephone & Telegraph	Yes	Utilities Easement	None following survey	<p>(1) DWR's proposed use will not impair or interfere with utilities 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</p>

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Part II 4	SMUD & General Telephone Co	Yes	Utilities Easement	None following survey	<p>(1) DWR's proposed use will not impair or interfere with utilities 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</p>

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Part II 5	The Federal Land Bank of Berkeley	No (Affects the entire parcel)	C.C. & R's un-named	None	No apparent public use ¹ implicated. No finding required
Part II 6	General Telephone Company of California	Yes	Utilities Easement	None following survey	(1) DWR's proposed use will not impair or interfere with utilities 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

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Part II 7	Unknown	No (Affects the entire parcel)	Deed of Trust	None	No apparent public use ¹ implicated. No finding required

GUARANTEE NO. CAFNT0934-0934-0010-005011202Z-FNTIC-2011-GL, DATED SEPT 22, 2011

PART I

1-3. TAXES

4. ANY UNPAID AMOUNTS FOR DELINQUENT UTILITIES

5. ANY ADVERSE CLAIM BASED UPON THE ASSERTION:

- 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 SACRAMENTO RIVER OR HAS BEEN FORMED BY ACCRETION TO ANY SUCH PORTION.

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

7. 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.

8. RIGHTS OF THE PUBLIC AND/OR RECLAMATION DISTRICT NO. 744, IN AND TO ANY HIGHWAYS, ROADS, DITCHES, CANALS AND LEVEES LYING WITHIN THE BOUNDARIES OF THE HEREIN DESCRIBED PROPERTY.

PART II

1. EASEMENT(S) FOR ROADWAY TO COUNTY OF SACRAMENTO RECORDED APRIL 2, 1912, BOOK 109, PAGE 299 AFFECTS THE NORTHERN 40 FEET OF SAID LAND

2. EASEMENT(S) FOR PUBLIC UTILITIES FOR GREAT WESTERN POWER COMPANY RECORDED DECEMBER 14, 1912, BOOK 367, PAGE 363

3. EASEMENT(S) FOR PUBLIC UTILITIES TO DELTA TELEPHONE AND TELEGRAPH COMPANY RECORDED MAY 19, 1918, BOOK 488, PAGE 32

4. EASEMENT(S) FOR PUBLIC UTILITIES TO SACRAMENTO MUNICIPAL UTILITY DISTRICT AND GENERAL TELEPHONE COMPANY OF CALIFORNIA RECORDED DECEMBER 16, 1965, BOOK 5398, PAGE 634

*5. COVENANTS AND RESTRICTIONS BETWEEN RICHARD W. PIDDUCK, HELEN K. PIDDUCK AND THE FEDERAL LAND BANK OF BERKELY RECORDED FEBRUARY 20, 1973, INSTRUMENT NO. 15147, BOOK 73-02-20, PAGE 522 AFFECTS PARCEL ONE

6. EASEMENT(S) FOR PUBLIC UTILITIES TO GENERAL TELEPHONE COMPANY OF CALIFORNIA RECORDED SEPTEMBER 23, 1976, BOOK 760923, PAGE 911

*7. DEED OF TRUST TO SECURE INDEBTNESS RECORDED MARCH 22, 1984, INSTRUMENT NO. 048105, BOOK 84-03-22 PAGE 0591.

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



PREPARED 11/28/12

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**