

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

RON No.: 2011-30
Adoption Date: November 16, 2011
Project: Geotechnical Activities in support of the Bay Delta Conservation Plan (BDCP)
APN: 132-0010-005-000
DWR Parcel No.: DCAP-225
Owner(s): WR Cave Ranch, LLC
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 49.1-acre rectangular-shaped parcel. The property is improved with a pear orchard with an underground solid set irrigation system and is also improved with an older agricultural shop building. The subject parcel is located in an unincorporated area of Sacramento County, along the Sacramento River, south of Freeport. The property is accessed from Highway 160, a two-lane 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 implicated ¹ . No finding required
Part I 4	Public and/or Reclamation District Number 744	No (Affects entire parcel)	Rights for roads, ditches, flumes, canals, and levees	None	(1) DWR's proposed use will have no impact on access to roads, ditches, canals, and levees. Throughout DWR's proposed use the public and/or RD 744 will continue to have access to roads, ditches, canals and levees. 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

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
					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 5	Unknown	No (Affects entire parcel)	Adverse claim that some portion of the land has not at any time been within the State of California or County of Sacramento	None	<p>(1) DWR's proposed use of the land would not affect the location of parcel boundaries or claims related thereto. 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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Part I 6, 7, 9	Unknown	No (Affects entire parcel)	High water mark, accretion or avulsion Rights and easements for navigation and fishery	None	<p>(1) DWR's proposed use will not impair any rights or a claim regarding accretion or avulsion or any right or easements for navigation and fishery as DWR's proposed use is not located at or near the location of such interests. 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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Part I 8	Public	No (Affects entire parcel)	Undisclosed rights in favor of public	None following survey	<p>(1) DWR's proposed use will not impair any apparent rights in favor of the public. 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. Throughout DWR's proposed use of the condemned area, the public will continue to have transportation and other access on streets, roads, public places, and highways commensurate with existing access. 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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					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 1	John Elliot	Yes	Easement for road purposes	None	No apparent public use implicated ¹ . No finding required.
Part II 2	Reclamation District Number 744	Yes	Easement for Flood Control	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 and will not impair the use of the road by RD 744. If any facilities exist or activities are being carried out pursuant to RD 744's existing easement, DWR will navigate around such activities/facilities. Therefore, DWR's proposed use satisfies CCP 1240.510.</p> <p>(2) DWR's proposed use will</p>

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Part II 3	PG&E (successor to Great Western Power Company)	Yes	Easement for Electrical Facilities	None following survey	(1) DWR's proposed use will not impair or interfere with use or function of electric 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

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Part II 4	Delta Telephone and Telegraph Company	No (Unable to determine location without survey)	Consent to removal	None following survey	(1) DWR's use will not impair or interfere with use or function of existing communication facilities. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of existing utility lines, underground plumbing, etc. If these surveys indicate that

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					<p>DWR's proposed activities would impair or interfere with the existing utilities, 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	Reclamation District Number 744	No (Unable to determine location without	Agreement re undisclosed subject matter	None following survey	(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

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		survey)			<p>have access to levees. Condemned areas will be thoroughly surveyed once DWR has permission to enter properties to identify the location of existing utility lines, underground plumbing, etc. If these surveys indicate that DWR's proposed activities would impair or interfere with the existing utilities, 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 6	SMUD	Yes	Easement for Electrical Facilities	None following survey	<p>(1) DWR's proposed use will not impair or interfere with use or function of electric 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</p>

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Part II 7	North Delta Water Agency	No (Affects entire parcel)	Subcontract Agreement	None	No apparent property interest implicated ¹ . No finding required.

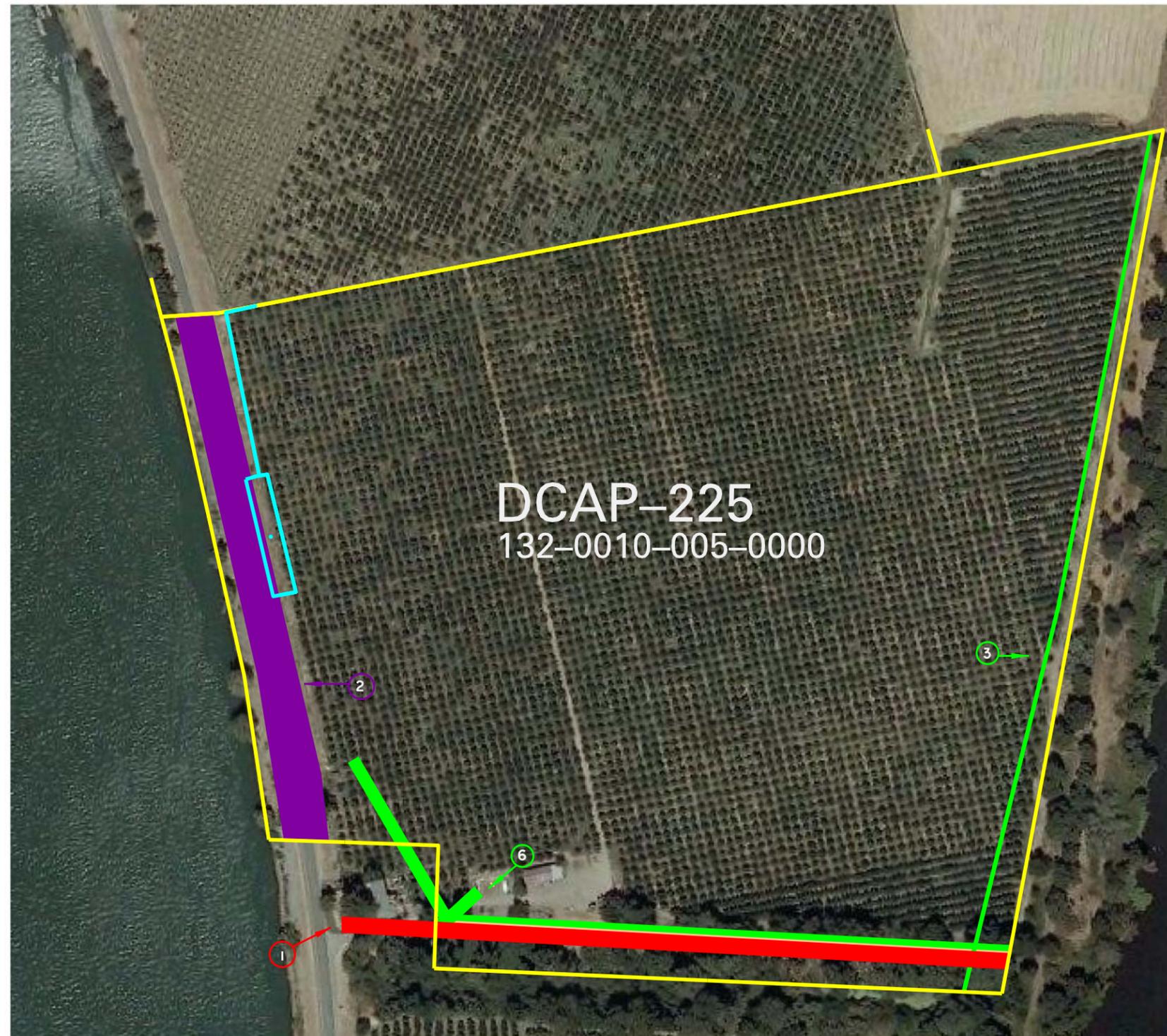
DATED SEPTEMBER 19, 2011

SCHEDULE B
PART I
1-3 PROPERTY TAXES

4. RIGHTS OF THE PUBLIC AND/ OR RECLAMATION DISTRICT NO. 744 IN AND TO ANY **ROADS, DITCHES, FLUMES, CANALS, AND LEVEES** LYING WITHIN THE HEREIN DESCRIBED PROPERTY.
5. ANY ADVERSE CLAIM THAT BOUNDARIES OF THE STATE OF CALIFORNIA COUNTY OF SACRAMENTO **BLANKET TITLE COMPANY EXCEPTIONS**
6. ANY ADVERSE CLAIM BASED UPON THE HIGHEST OF THE HIGH WATERMARKS OF THE SACRAMENTO RIVER OR ACCRETION OR AVULSION **BLANKET TITLE COMPANY EXCEPTIONS**
7. RIGHTS AND EASEMENTS FOR NAVIGATION AND FISHERY **BLANKET TITLE COMPANY EXCEPTIONS**
8. ANY RIGHTS IN FAVOR OF THE PUBLIC. **BLANKET TITLE COMPANY EXCEPTIONS**
9. ANY ADVERSE CLAIM BASED UPON HAS BEEN INCLUDED WITHIN A NAVIGABLE RIVER, SLOUGH, OR OTHER NAVIGABLE BODY OF WATER. **BLANKET TITLE COMPANY EXCEPTIONS**

SCHEDULE B
PART II

- ① EASEMENT(S) FOR ROAD PURPOSES RESERVED BY JOHN ELLIOT RECORDED OCTOBER 13, 1903, BOOK 199 OF DEEDS, PAGE 277
- ② EASEMENT(S) FOR FLOOD CONTROL GRANTED TO RECLAMATION DISTRICT NO. 744 RECORDED APRIL 21, 1904, BOOK 200 OF DEEDS, PAGE 155
- ③ EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO GREAT WESTERN POWER COMPANY RECORDED JULY 13, 1912, BOOK 358 OF DEEDS, PAGE 368
4. MATTERS CONTAINED IN "CONSENT TO THE REMOVAL" DATED APRIL 13, 1918, EXECUTED BY DONNA R. ELLIOT EXECUTED BY AND BETWEEN DELTA TELEPHONE & TELEGRAPH COMPANY RECORDED MAY 9, 1918, BOOK 488 OF DEEDS, PAGE 32.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE
5. MATTERS CONTAINED IN "AGREEMENT" DATED MAY 26, 1923, EXECUTED BY RECLAMATION DISTRICT NO. 744 AND RATIE E. GLEIE AND GRACIE E. SAWTELLE RECORDED MAY 31, 1923, BOOK 18 OF MISCELLANEOUS RECORDS, PAGE 100.
UNABLE TO DETERMINE LOCATION WITH DATA AVAILABLE
- ⑥ EASEMENT(S) FOR ELECTRICAL FACILITIES GRANTED TO SACRAMENTO MUNICIPAL UTILITY DISTRICT, RECORDED MARCH 23, 1960, BOOK 4022, PAGE 111, OF OFFICIAL RECORDS
- * 7. MATTERS CONTAINED "SUBCONTRACT AGREEMENT" DATED SEPTEMBER 12, 2008, EXECUTED BY WR CAVE RANCH, LLC AND NORTH DELTA WATER AGENCY RECORDED FEBRUARY 2, 2009, BOOK 20090202, PAGE 475, OF OFFICIAL RECORDS.



SACRAMENTO COUNTY
PREPARED 11/30/12

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