

**Meeting of the Central Valley Flood Protection Board  
August 30, 2019**

**Staff Report – Resolution of Necessity to Acquire Real Property: Yolo County’s  
APN 042-280-009, 042-280-010 and 042-280-017**

**Department of Water Resources  
Lower Elkhorn Basin Levee Setback Project, Yolo County**

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**1.0 – REQUESTED ITEM**

Consider the adoption of the attached Resolution No. 2019-18 (Attachment A), authorizing an eminent domain action to acquire the fee simple interest of 280.144+/- acres of land and associated improvements in the following property on Yolo County’s Assessor Parcel Number (APN) 042-280-009, 042-280-010 and 042-280-017 (Property), for the Lower Elkhorn Basin Levee Setback (LEBLS) Project.

The Resolution of Necessity provides that the public interest and necessity require the Project, the Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury, the Property sought to be acquired is necessary for the Project, and the offer required by section 7267.2 of the Government Code has been made to the owner or owners of record. CCP § 1245.230.) (The amount of compensation that is required to be paid to the owner(s) to acquire the Property is not at issue in this proceeding. The amount of compensation will be determined in a court trial following adoption of the Resolution of Necessity. (Cal. Const., art I, § 19).)

**2.0 – PROPERTY**

The proposed action involves the acquisition of the real property referenced above to support the flood risk reduction improvements and other project components that will be constructed for the Project. The property is owned by Riverby Ranches, LLC and is located west of Old River Road and north of County Road 126 in the Lower Elkhorn Basin. (A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification. CCP § 1245.230(b).) Acquisition of the Property is necessary for the setback levee portion of the Project and will include portions of the levee, road, borrow areas, mitigation and other purposes of the Project.

The property to be acquired consists of 280.144± acres of agricultural land located immediately west of the Sacramento River and north of the Sacramento Bypass. The

property is level, well drained, has good access and Class II and III soils. Water is provided by riparian waters from the adjacent river through a lift pump onsite as well as two onsite agricultural wells. The property is improved with a four-year-old walnut orchard development with approximately 253.6 net acres planted (91% of the gross property area). The property has a weighted average density of 80 trees per acre; typical for newer orchard developments. Negative attributes of the property are the AE flood zone designation (limits homesite potential), the irregular shape of the property (bifurcated by the rail line) and Reclamation District easements encumbering the property. Positive attributes of the property are the predominantly Class II soils with some Class III, the drip irrigation system, the good frontage and access, developed water and new walnut orchard improvements with a density of 80 trees per acre.

### **3.0 – AUTHORITY OF THE BOARD**

Pursuant to Water Code sections 8590 and 8593, the Board may acquire by eminent domain in the name of the Sacramento and San Joaquin Drainage District any property necessary for the purposes set forth in Water Code section 8590, et seq. Pursuant to Code of Civil Procedure section 1245.210(b), the Board is the governing body for Resolutions of Necessity for the Sacramento and San Joaquin Drainage District.

Approval of the resolution authorizing an eminent domain action to acquire the Property is consistent with the Board's policy of improving flood risk management through implementation of the 2017 CVFPP Update.

### **4.0 – PROJECT LOCATION**

The Lower Elkhorn Basin is bounded by Interstate 5 (I-5) on the north, the Sacramento River on the east, the Sacramento Bypass on the south, and the Tule Canal on the west. The project would set back levees protecting the Lower Elkhorn Basin, including the Sacramento Bypass North Levee and a portion of the Yolo Bypass East Levee, in Yolo County.

The LEBLS project site is primarily used for agricultural production of row crops (e.g., tomatoes, sunflowers, safflowers); alfalfa; and nut-bearing orchards. The population is fewer than 100 people, and contains fewer 100 structures including farm buildings, permanent and temporary residences, and commercial buildings. The Basin is subdivided by interior drainage canals forming three sub-basins identified as Reclamation Districts (RD): RD 537 (southeast quarter of the Basin), RD 785 (southwest quarter of the Basin), and RD 827 (northern part of Basin). The RDs each

operate their own interior drainage canals and pump systems for crop irrigation and interior drainage. The topography of the Lower Elkhorn Basin area is relatively flat and slopes gently from northeast to southwest. The ground surface elevations range from about 10 to 25 feet (North American Datum of 1983 [NAD83]). The Yolo Bypass is oriented generally north to south. The Sacramento Bypass channel is oriented east to west.

## **5.0 – PROJECT DESCRIPTION**

Consistent with the 2012 Central Valley Flood Protection Plan (CVFPP), the LEBLS Project would expand the flood capacities of the Yolo and Sacramento Bypasses, which are both critical flood risk reduction elements for major urban and agricultural areas in the lower Sacramento River watershed. The LEBLS Project would lower flood stages in the Sacramento River and upper Yolo Bypass, reducing flood risks to portions of the Cities of Sacramento, West Sacramento, and Woodland. Located in Yolo County, just west of the Sacramento River, the project site extends along the Sacramento Bypass and continues north along the east side of the Yolo Bypass terminating just south of I-5. The LEBLS Project includes the design, engineering, permitting, real estate acquisition, and construction of the setback of the 1.7-mile levee north of the Sacramento Bypass and up to 6 miles of the east levee of the Yolo Bypass adjacent to the Lower Elkhorn Basin, partial or full old levee degrades, seepage berms, cutoff walls, relief wells, erosion protection, construction of a landside toe access road, and ecosystem enhancement through floodplain expansion and required project mitigation, consistent with the CVFPP. (See Attachment B.1).

## **6.0 – DISCUSSION**

### **The public interest and necessity require the proposed project. (CCP § 1245.230(c)(1).)**

The public interest and necessity require acquisition of the Property for the Project. The purpose of the Project is to reduce flood risk to the Cities of Sacramento, West Sacramento, and Woodland by improving the flood management system consistent with the State-approved 2012 CVFPP and 2017 Update. The acquisition of the Property is required and necessary for construction of the setback levee portion of the Project and will include a portion of the levee, road, borrow areas, mitigation and other purposes of the Project.

The Project is needed because of the high risk of flooding threatening life and public safety, property, critical infrastructure, and the environment throughout the areas protected by the Yolo and Sacramento Bypasses, including but not limited to portions of the Cities of Sacramento, West Sacramento, and Woodland. The Project improvements are designed to provide increased system resiliency to convey large flood events as outlined in the 2017 CVFPP for the Yolo Bypass upstream of I-5 (City of Woodland) and the Sacramento River at I Street Bridge (City of Sacramento); address deficiencies in the existing Sacramento Bypass North Levee and portions of the Yolo Bypass East Levee, as evidenced by several slope failures, sloughing, boils, and slope cracking in early 2017; and other Project needs as discussed in the Final Environmental Impact Report (FEIR).

**The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. (CCP § 1245.230(c)(2).)**

The Project will be most compatible with the greatest public good and least private injury because it will provide maximum flood protection while simultaneously minimizing the amount of private land that will be acquired. The Project design incorporates community input and advice, technical and safety considerations, and multiple agency reviews.

The Project has been designed so that the acquisition and use of the Property will not unreasonably interfere with or impair the use of any property currently in public use.

On September 8, 2016, U.S. Army Corps of Engineers (USACE) issued the Notice of Intent (NOI) to inform agencies and the general public that a joint EIS/EIR was being prepared for the project and invited comments on the scope and content of the document. The NOI was published in the Federal Register Vol. 81, No.174, on September 8, 2016. The NOI was also published on the USACE website. USACE posted the NOI on September 9, 2016, with an expiration date of October 7, 2016. Agencies and interested parties were given the opportunity to provide USACE with written comments on the proposed scope and content of the EIS/EIR until October 7, 2016 to align with the California Environmental Quality Act (CEQA) Notice of Preparation (NOP) time mandate.

On September 7, 2016, Department of Water Resources (DWR) and the State Clearinghouse issued the NOP to inform agencies and the general public that a joint EIS/EIR was being prepared for the project and invited comments on the scope and content of the document. The NOP contained information on the location, date, and time



of the scoping meeting. The NOP was also published on the DWR project website. Additionally, the NOP release and announcement of the joint EIS/EIR scoping meeting was published in the Sacramento Bee, the newspaper of greatest general circulation.

As mandated under CEQA, the NOP was circulated for a minimum 30-day public review period, beginning on September 7, 2016, and ending on October 7, 2016. Agencies and interested parties were given the opportunity to provide DWR with written comments on the proposed scope and content of the EIS/EIR until 5 p.m. on October 7, 2016.

USACE and DWR held a joint public scoping meeting on September 15, 2016, in West Sacramento. Written comments were received by USACE and/or DWR from the following Federal, State, and regional and local agencies, and nongovernmental organizations: U.S. Environmental Protection Agency, California Department of Fish and Wildlife, Central Valley Regional Water Quality Control Board, Delta Stewardship Council, Native American Heritage Commission, County of Yolo, Lower Sacramento/Delta North Region, California Farm Bureau Federation, Pacific Gas and Electric Company, and Yolo Basin Foundation.

Upon request, DWR held and attended more than 30 meetings with interested parties, including National Marine Fisheries Service; U.S. Bureau of Reclamation; U. S. Fish and Wildlife Services; California Department of Fish and Wildlife; Yolo County; Sacramento Area Flood Control Agency; RDs 537, 785, and 827; and local landowners.

On September 22, 2017, the Board authorized the sending of the Section 408 Request Letter to the U.S. Army Corps of Engineers requesting permission to alter a portion of the Sacramento River Flood Control Project (SRFCP) levees through the LEBLS Project, based on 65% design submittal package and pursuant to U.S. Code Title 33, Section 408 (Section 408).

The DEIS/DEIR was circulated for a 45-day public review period from May 25, 2018 to July 9, 2018, and a joint public meeting on the DEIS/DEIR was conducted by USACE and DWR on Thursday, June 7, 2018 from 4 p.m. to 6 p.m. at West Sacramento City Hall, 1110 West Capitol Avenue, West Sacramento, California 95691.

The FEIR was prepared and circulated in accordance with CEQA requirements and includes responses to all comments received on the DEIS/DEIR. The Notice of Determination (NOD) was filed on March 18, 2019.

**The property described in the resolution is necessary for the proposed project. (CCP § 1245.230(c)(3).)**

The Property to be acquired is approximately 280.144+/- acres of land and associated improvements. The Property is identified by the Yolo County's Assessor Parcel Numbers (APN) 042-280-009, 042-280-010 and 042-280-017. The Property would be acquired in fee simple. As shown on the attached map, the new setback levee will cross the Property.

The Property would be acquired for the purposes of all stages of construction, operation, reconstruction, repair, and maintenance of improvements for present and future flood control, partial or full old levee degrades, seepage berms, cutoff walls, relief wells, erosion protection, construction of a landside toe access road, ecosystem enhancement through floodplain expansion and required project mitigation, and other uses in connection with the LEBLS Project. (CCP § 1245.230(a).)

**That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence. (CCP § 1245.230(c)(4).)**

DWR staff has complied with right-of-way acquisition guidelines and requirements. In 2016, DWR advised the property owners that DWR desired to appraise and acquire the subject property for the implementation of setback levees to widen the Yolo Bypass and Sacramento Bypass. In February 2019, DWR advised the property owners through e-mail that DWR desired to re-appraise the subject property and acquire the subject property for the LEBLS project.

On April 17, 2019, the First Written Offer (FWO), in compliance with Government Code section 7267.2, was mailed to the property owner of record. The FWO package included the following: Cover Letter including the Fair Market Value offer, Appraisal Summary Statement, Right of Way Contract, Map of the Proposed Acquisition Area, Grant Deed, Comparable Orchard Sales Summary Table and Map, and DWR Real Estate Branch Property Acquisition Information. The Cover Letter included the statement that DWR would reimburse the owners up to \$5,000 if they decided to obtain their own appraisal of the acquisition area.

From May through July 2019, DWR real estate staff and Riverby's representatives exchanged counter offers. Riverby requested additional sales comparisons and provided a sales flyer with area trends. The additional research by DWR did not support the counter offer from the owner and the parties were unable to reach a consensus.

On August 5, 2019, the Board staff mailed the Notice of Intent to Adopt a Resolution of Necessity to the owners. The Notice stated that the owner has the right to be heard at the Board meeting to be held on Friday, August 30, 2019 to consider the adoption of a Resolution of Necessity to acquire the Property by eminent domain.

The resolution before the Board today would start the formal eminent domain process to acquire the Property. Staff recommends that the Board start the formal eminent domain process at this time to allow staff to meet the construction schedule for the Project. DWR real estate staff, however, is willing to negotiate a settlement with the owner at any point during the eminent domain process.

### **6.1 Consistency with the 2017 CVPPP Update**

As part of the CVFPP, Regional Flood Management Plans, the Sacramento Basin-Wide Feasibility Study (BWFS), and the Conservation Strategy (CS), this project has refined multi-benefit solutions for an integrated system-wide approach in the Central Valley consistent with California Water Action Plan (CWAP) objectives. This project is based on the CVFPP recommendations to improve flood system flexibility and resiliency by implementing system scale multi-benefit improvements. These system improvements will be designed and implemented to create a sustainable water-related resources management system that achieves a resilient, dynamic balance between the societal values of public health and safety, vital ecosystems, stable economies, and opportunities for enriching experiences.

## **7.0 – STAFF RECOMMENDATION**

Staff recommends that the Board adopt the Resolution of Necessity authorizing the use of eminent domain to acquire for the Lower Elkhorn Basin Levee Setback Project the following property: Parcel Owner: Riverby Ranches, LLC, APNs 042-280-009, 042-280-010 and 042-280-017 (Yolo County).

## **8.0 – LIST OF ATTACHMENTS**

- A. Resolution of Necessity No. 2019-18
- B. Project Location Map
- C. Subject Property Acquisition
  - C.1 - Map of the General Location of the Property
  - C.2 - Map of the Extent of the Subject Property to Be Taken
  - C.3 - Legal Description
- D. CEQA Notice of Determination
- E. Confirmation from Owner of Appraisal Request
- F. First Written Offer (with attachments)
  - Cover Letter
  - Appraisal Summary Sheet
  - Right of Way Contract
  - Map of Property
  - Grant Deed (with attachments)
  - Comparable Orchard Sales Summary Table and Map
  - DWR Real Estate Branch Property Acquisition Information
- G. Acquisition Summary Sheet
- H. Right-of-Way Agent Diary
- I. Notice of Intent to Adopt a Resolution of Necessity

Report by: Corey Lasso, P.E., Senior Engineer, Systemwide Multi-Benefit Initiatives  
Office, DWR

Reviewed by: Andrea Buckley, Chief, Environmental Services and Land Management  
Branch, Board Staff

**STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD  
RESOLUTION OF NECESSITY NO. 2019-18  
FOR ACQUISITION OF YOLO COUNTY'S ASSESSOR PARCEL NUMBERS 042-280-  
009, 042-280-010 AND 042-280-017**

**BACKGROUND:**

- A. WHEREAS**, the Central Valley Flood Protection Act of 2008 (2008 Act) directed that the Department of Water Resources (DWR) prepare a Central Valley Flood Protection Plan (CVFPP) to be adopted by the Central Valley Flood Protection Board (Board) by July 1, 2012 (CWC § 9612(b)); and
- B. WHEREAS**, the Board adopted the CVFPP, the State Plan of Flood Control Descriptive Document (DWR, 2010), and the Flood Control System Status Report (DWR, 2011) on June 29, 2012 through Resolution No. 2012-25; and
- C. WHEREAS**, the 2008 Act directs that the CVFPP be updated in subsequent years (CWC § 9612(e)), and the Board adopted the CVFPP 2017 Update on August 25, 2017 through Resolution No. 2017-10; and
- D. WHEREAS**, consistent with the 2012 CVFPP and the CVFPP 2017 Update, the Lower Elkhorn Basin Levee Setback Project would expand the flood capacities of the Yolo and Sacramento Bypasses, which are both critical flood risk reduction elements for major urban and agricultural areas in the lower Sacramento River watershed; and
- E. WHEREAS**, DWR prepared and circulated a Final Environmental Impact Report for the Project, in compliance with the California Environmental Quality Act, and filed the Notice of Determination on March 18, 2019; and
- F. WHEREAS**, the Board has the authority to acquire property through eminent domain on behalf of the Sacramento and San Joaquin Drainage District (CWC § 8590, 8593); and
- G. WHEREAS**, the Board is the governing body for adopting Resolutions of Necessity for the Sacramento and San Joaquin Drainage District (Civil Code of Procedure (CCP) § 1245.210(b)); and
- H. WHEREAS**, the property to be acquired in fee simple is identified as APNs 042-280-009, 042-280-010 and 042-280-017, Yolo County.

**NOW, THEREFORE THE BOARD FINDS:**

- I. WHEREAS**, That the above recitals are true and correct; and
- J. WHEREAS**, That the property to be acquired is necessary to reduce flood risk by improving the flood management system consistent with the State-approved 2017 CVFPP Update (CCP § 1245.230(a)); and
- K. WHEREAS**, That the Board has found and determined that the public interest and necessity require the Project (CCP § 1240.030(a)); and
- L. WHEREAS**, That the Board has found and determined that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury (CCP § 1240.030(b)); and
- M. WHEREAS**, That the Board has found and determined that the property sought to be acquired is necessary for the Project (CCP § 1240.030(c)); and
- N. WHEREAS**, That the Board has found and determined that the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record; and
- O. WHEREAS**, That timely notice was sent to the owners and reasonable opportunity to appear and be heard on these matters was provided (CCP § 1245.235).

**NOW, THEREFORE, BE IT RESOLVED:**

- 1.** That the Lower Elkhorn Basin Levee Setback Project is consistent with the Board's mission "[t]o reduce the risk of catastrophic flooding to people and property within the California Central Valley."
- 2.** That the Lower Elkhorn Basin Levee Setback Project is consistent with the 2017 CVFPP Update's primary goal to improve flood risk management, and the 2017 CVFPP Update's supporting goals.
- 3.** That the Board adopts this Resolution of Necessity and authorizes DWR the use of the Board's statutory authorities related to eminent domain to acquire for the Lower Elkhorn Basin Levee Setback Project the following properties: Riverby Ranches LLC, APNs 042-280-009, 042-280-010 and 042-280-017 (Yolo County).

This resolution shall constitute the written decision of the Board in the matter of adopting this Resolution of Necessity.

**PASSED AND ADOPTED** by vote of the Board on August 30, 2019.

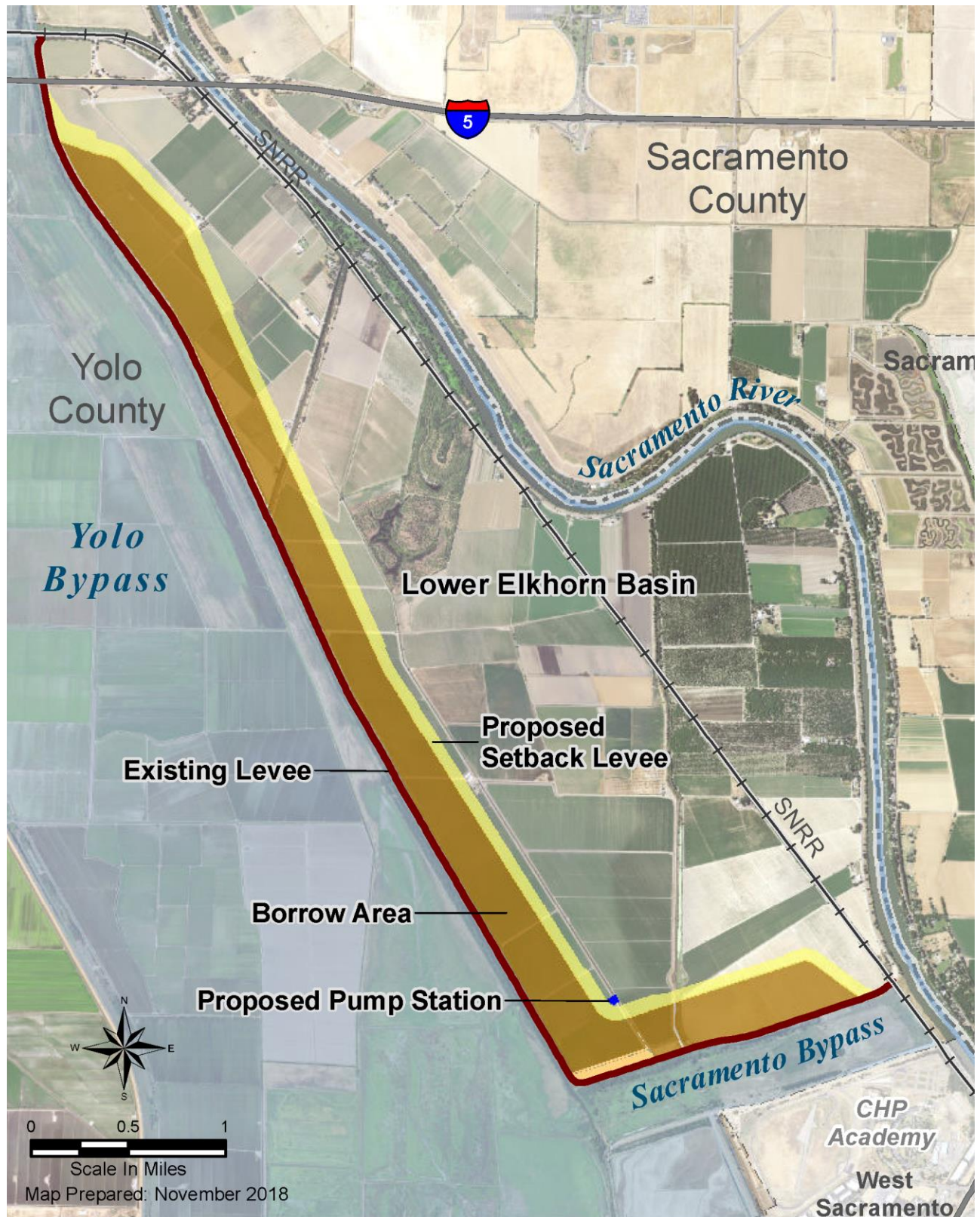
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William H. Edgar, President

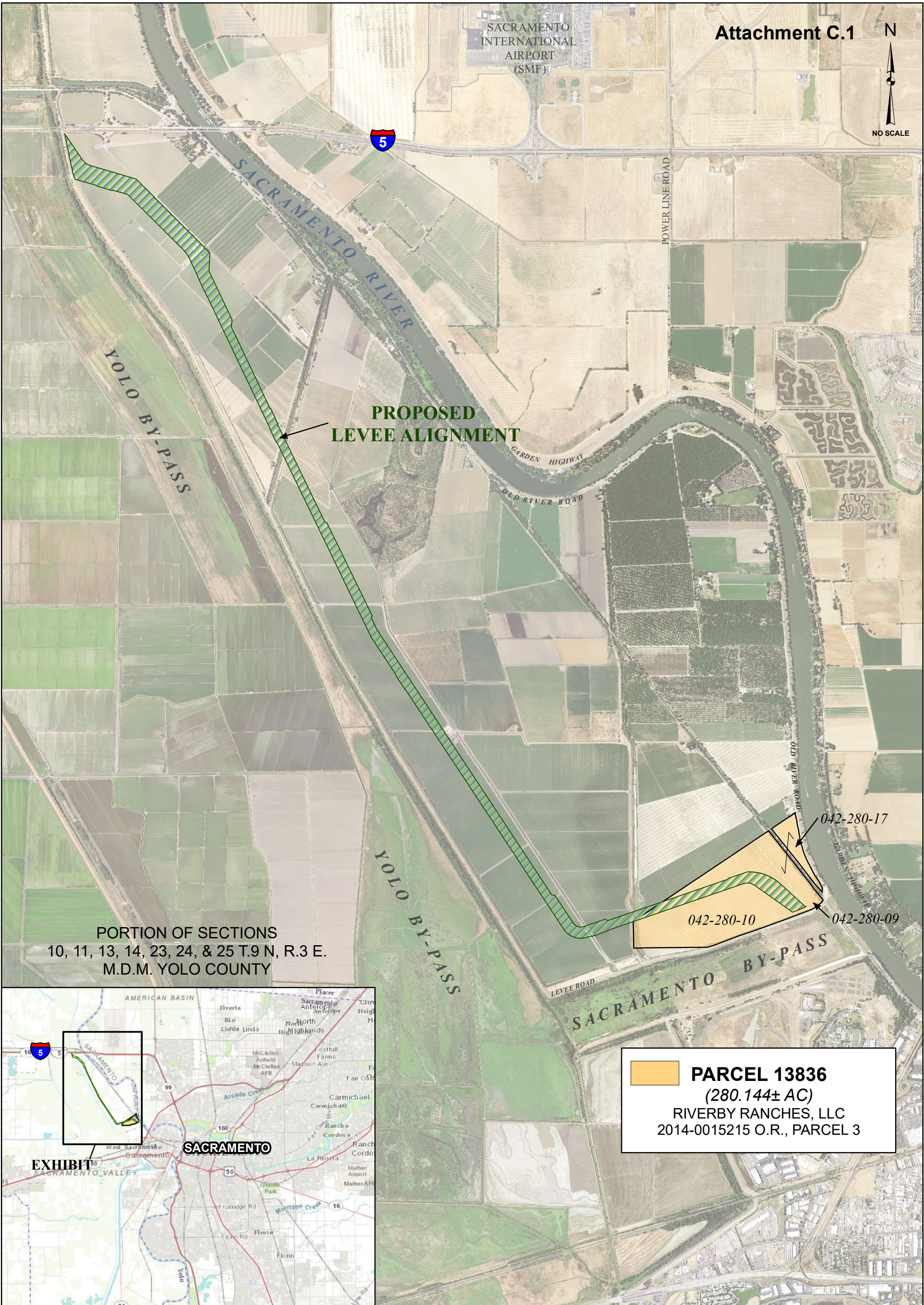
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Jane Dolan, Vice President / Secretary

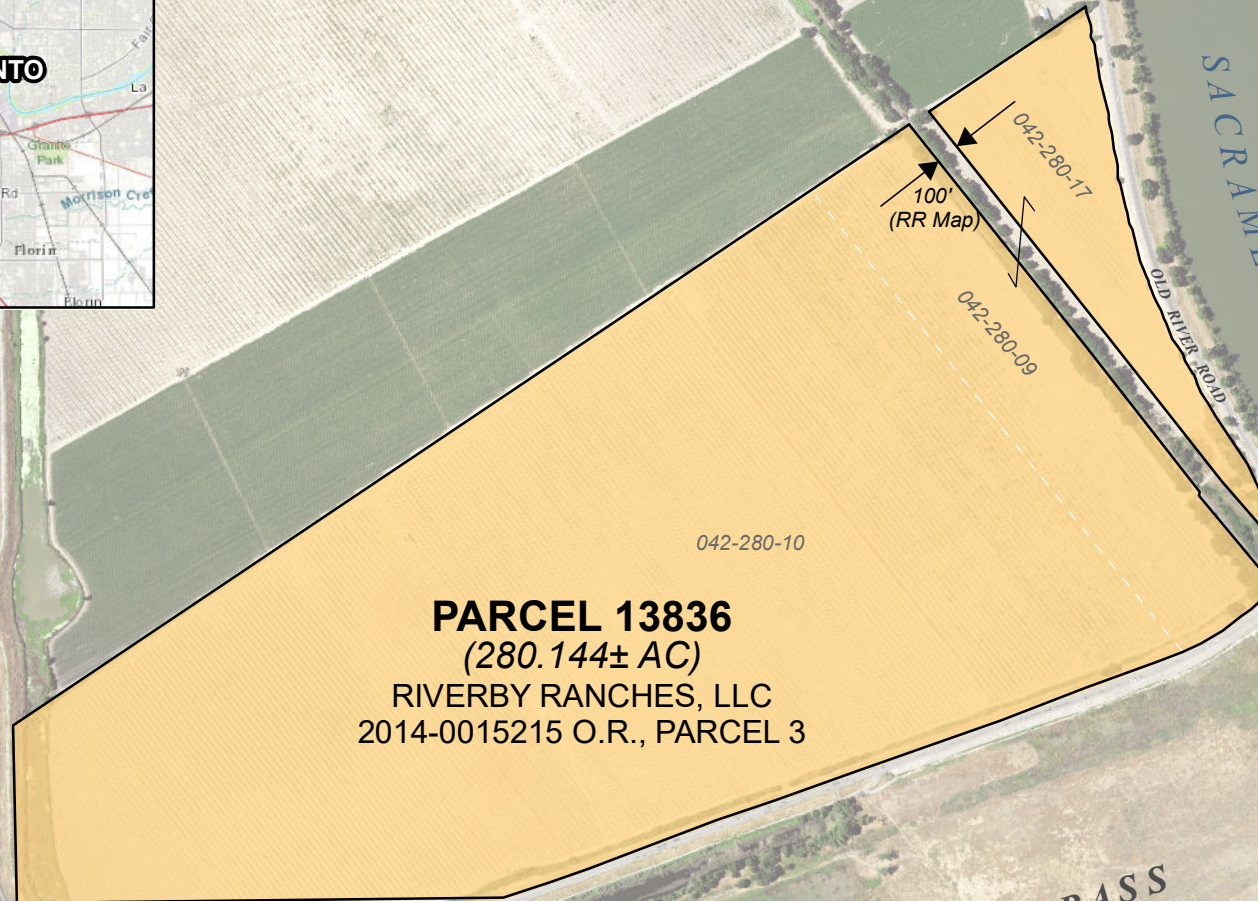
# LOWER ELKHORN BASIN LEVEE SETBACK PROJECT











PORTION OF SECTIONS  
10, 11, 13, 14, 23, 24, & 25 T.9 N, R.3 E.  
M.D.M. YOLO COUNTY

8/27/2019

LOWER ELKHORN BASIN  
LEVEE SETBACK PROJECT  
**PROPOSED ACQUISITION EXHIBIT**

This exhibit does not represent a survey and is for informational purposes only.

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**DEPARTMENT OF WATER RESOURCES**  
DIVISION OF ENGINEERING - GEODETIC BRANCH

EXHIBIT "A"

All that real property situated in protracted Sections 19 and 20, Township 9 North, Range 4 East, MDM, in the unincorporated area of the County of Yolo, State of California, being a portion of SWAMP LAND SURVEY NUMBERS 303, 647, and 924 described as follows:

**PARCEL 13836**

All of PARCEL THREE AND FOUR as described in that Grant Deed Document 2014-0015215-00, recorded July 14, 2014, Official Records of Said County.

EXCEPTING THEREFROM all that portion of PARCEL THREE and FOUR described as follows:

(A) That portion thereof that lies within the boundaries of the land conveyed by the City of Sacramento to the Sacramento San Joaquin Drainage District, by Deed dated May 31, 1916, and recorded November 15, 1916, in Book 91 of Deeds, at Page 2, and by Deed dated January 29, 1918, and recorded March 1, 1919, in Book 95 of Deeds, at Page 151, Official Records of Said County.

(B) That portion thereof that lies within the boundaries of the land conveyed by T.T.C. Gregory, by Deed to the Sacramento and Woodland Railroad Company, recorded January 19, 1917, in Book 91 of Deeds, at Page 136, Official Records of Said County.

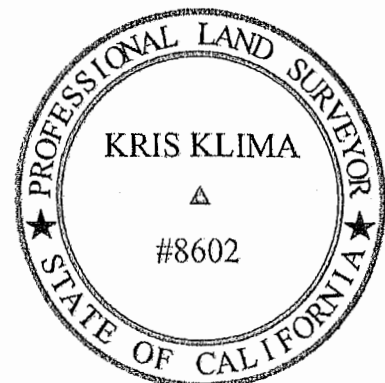
(C) That portion thereof that lies within the boundaries of the land conveyed by Ray Greer, Myette Greer, and Gertrude Leeman aka Gertrude Leeman Reese to the Sacramento and San Joaquin Drainage District, by Deed dated July 13, 1965, and recorded November 26, 1965, in Book 813 of Official Records, at Page 581, Official Records of Said County

(D) That portion thereof that lies within the boundaries of the land conveyed Ray Greer, Myette Greer and Gertrude Leeman Reese to the State of California, by Deed dated March 24, 1948 recorded June 28, 1948 in Book 283, at Page 210, Official Records of Said County

ALSO EXCEPTING THEREFROM, and undivided 50% interest in all oil, gas, minerals and other hydrocarbon substances lying in, on or under the above parcels, as reserved in the Deed executed by Beatty H. Ramsey, M.D., ET AL, recorded April 23, 1984, in Book 1640, Page 136, Official Records of Said County.

Containing 280.144 acres, more or less.

 4/11/19  
KRISTOPHER KLIMA, PLS





## Notice of Determination

Appendix D

## To:

☒ Office of Planning and Research

For U.S. Mail:

P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth St.

Sacramento, CA 95814

☐ County Clerk

County of: \_\_\_\_\_

Address: \_\_\_\_\_

## From:

Public Agency: CA Department of Water Resources

Address: 3464 El Camino Avenue Suite 150

Sacramento, CA 95821

Contact: Erin Brehmer

Phone: (916) 574-2313

Lead Agency (if different from above): \_\_\_\_\_

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2016092015

Project Title: Lower Elkhorn Basin Levee Setback Project

Project Location (include county): Sacramento

## Project Description:

The Lower Elkhorn Basin Levee Setback Project would entail the following flood-risk reduction elements (1) widening the Yolo Bypass by constructing a setback levee approx. 1,500 feet east of the Tule Canal in the Lower Elkhorn Basin (between I-5 and the Sacramento Bypass), (2) widening the Sacramento Bypass by constructing a setback levee approx. 1,500 feet north of the existing levee (3) potential degrading of all or portions of existing levees; and (4) implementing ecosystem improvements in the lower Elkhorn Basin to mitigate project impacts.

This is to advise that the California Department of Water Resources has approved the above described project on

☒ Lead Agency or ☐ Responsible Agency

March 18, 2019

(Date)

and has made the following determinations regarding the above described project:

1. The project [☒ will ☐ will not] have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☒ was ☐ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at: 3464 El Camino Avenue Suite 150

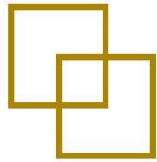
Signature (Public Agency) \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

3/18/19

Date Received for filing at OPR \_\_\_\_\_



**BENDER  
ROSENTHAL, INC.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

4400 Auburn Boulevard, Suite 102  
Sacramento, CA 95841  
main: 916.978.4900 • fax: 916.978.4904  
www.benderrosenthal.com

**NOTICE OF DECISION TO APPRAISE**

April 20, 2016

Riverby Ranches, LLC  
Attn: Anthony Laney  
1624 Poole Boulevard  
Yuba City, California, 95953

Re: 280.02± Acres, Yolo County, California  
Assessor's Parcel Numbers: 042-280-09, 10 & 17

Dear Mr. Anthony Laney:

The State of California, Department of Water Resources is looking to increase flood protection for urban and rural areas in and around Sacramento and Yolo Counties. The Department will accomplish this through phased implementation of setback levees to widen the Yolo Bypass and Sacramento Bypass in the lower Elkhorn Basin. This property is proposed to be the site for a new setback levee. The purpose of this correspondence is to inform you of the intent to appraise your property, (APNs: 042-280-09, 10 & 17), which may be acquired for this levee project.

In connection with this project, the State of California, Department of Water Resources has retained Bender Rosenthal, Inc., Commercial Valuation and Right of Way Services, to develop and produce an appraisal. The appraisal process starts by inspecting your property for purposes of establishing the fair market value of your property. An appraiser from Bender Rosenthal will call you to arrange a mutually agreeable time to meet and inspect your property. You have the right and are encouraged to accompany the appraiser during the property inspection. Please provide Bender Rosenthal with your contact information, including your preferred time and form of contact (i.e. email, telephone).

This notice does not constitute an offer to purchase your property, nor does it establish eligibility for you or your occupant for relocation assistance or relocation payments.

In the meantime, if you have any questions regarding the potential acquisition of your property, the process or timing, please feel free to call me at (916) 978-4900. Thank you in advance for your cooperation.

Sincerely,

Kelli Johnson  
Bender Rosenthal, Inc.

**From:** [Anthony Laney](#)  
**To:** [Nolan.Patrick@DWR](mailto:Nolan.Patrick@DWR)  
**Cc:** [Sam Nevis; k.johnson@benderrosenthal.com](mailto:Sam.Nevis;k.johnson@benderrosenthal.com)  
**Subject:** Re: Leaving the Department of Water Resources  
**Date:** Tuesday, February 12, 2019 8:09:48 AM

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Good morning Patrick-

Unfortunately, our team is not available to meet you this afternoon. Sam and I are both booked and our farm managers are at the farm show in Tulare. You have permission to visit the ranch to conduct your appraisal today. If you have any questions, you can send them over to me or Sam.

Thanks,  
Anthony

Anthony Laney  
Sutter Land Management, LLC  
1624 Poole Boulevard  
Yuba City, CA 95993  
530-674-2060  
530-216-7128

On Feb 12, 2019, at 7:10 AM, Nolan, Patrick@DWR <[Patrick.Nolan@water.ca.gov](mailto:Patrick.Nolan@water.ca.gov)> wrote:

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Avenue, Room 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 579-0682  
Permits: (916) 574-0685 FAX: (916) 574-0682



APR 17 2019

Anthony Laney  
Riverby Ranches, LLC  
1624 Poole Boulevard  
Yuba City, California 95953

Dear Mr. Laney:

Our records indicate that Riverby Ranches, LLC is the owner of certain property situated in Yolo County, identified as Assessor's Parcel Nos. 042-280-009, 042-280-010, and 042-280-017. The Sacramento and San Joaquin Drainage District, acting by and through the Central Valley Flood Protection Board of the State of California (the Board), proposes to purchase this property, identified as Board Parcel No. 13836, to accomplish the goals of the Lower Elkhorn Basin Levee Setback Project.

Section 7267.2 of the California Government Code and the California Relocation Assistance and Real Property Acquisition Guidelines require that each property owner from whom the State of California purchases real property, or an interest therein, be provided with a summary of the appraisal of the real property, or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property rights being purchased, unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of the real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The State will offer to purchase any remnant(s) considered by the State to be an uneconomical unit(s) which is/are owned by you and which is/are contiguous to the land being conveyed.
3. All buildings, structures, and other improvements affixed to the land described in the referenced document(s) covering this transaction and owned by the Grantor herein are being conveyed unless other disposition of these improvements has been made. The right to be acquired is fee simple.
4. The market value of the property rights being purchased is based upon a market value appraisal, which is summarized in the enclosed Appraisal Summary Statement. As full just compensation for the property rights to be acquired, we offer you \$6,865,000, as shown on the enclosed Right of Way Contract.



The State's offer:

- a. Represents the full amount of the appraisal of just compensation for the property rights to be purchased;
  - b. Is not less than the approved appraisal of the fair market value of the property as improved;
  - c. Does not reflect any consideration of, or allowance for, any relocation assistance and payments or any other benefits to which you may be entitled; and
  - d. Disregards any decrease or increase in the fair market value of the real property rights to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired, or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant.
5. In accordance with Section 1263.025 of the California Code of Civil Procedure you are entitled to seek a second opinion on the value of your property and to receive reimbursement of up to \$5,000 to pay for reasonable appraisal costs. In order to be reimbursed, you must sign an Appraisal Costs Reimbursement Agreement and engage an appraiser licensed by the State of California with the Office of Real Estate Appraisers. The appraiser must be either a MAI designated appraiser or hold an equivalent designation recognized by the Appraisal Foundation. For further information on the requirements for reimbursement and to ensure that you are aware of proper procedures, please contact the Department of Water Resources (DWR) prior to engaging an appraiser. The request for an Appraisal Costs Reimbursement Agreement may be submitted to the Department of Water Resources, Real Estate Branch, 1416 Ninth Street, Room 425, Sacramento, California 95814, attention Patrick Nolan.
6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property, which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the Grantor's ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.
7. If you ultimately elect to reject the State's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.



Riverby Ranches, LLC

APR 17 2019

Page 3

Included as part of this package, you will find the following information relating to this proposed acquisition:

- Appraisal Summary Statement
- Right of Way Contract
- Map of the Proposed Acquisition Area
- Grant Deed
- Comparable Land Sales Summary
- Comparable Sales Map
- DWR Real Estate Branch Property Acquisition Information

Please date and sign the Deed **exactly** as shown in the designated location and have your signature **notarized**. If needed, a Public Notary can be made available to notarize your signature(s). Also, date and sign **three** copies of the Right of Way Contract and return them with the Deed in the envelope provided. A fully executed copy of the Right of Way Contract will be forwarded to you at a later date.

If you have any questions or need additional information, you may contact me directly by telephone at (916) 653-5185, or toll free at (800) 600-4397.

Sincerely,



Patrick J. Nolan  
Associate Right of Way Agent

Enclosures

## APPRAISAL SUMMARY STATEMENT

**Parcel No.:** 13836  
**Report No.:** Original  
**Date of Value:** April 2, 2019  
**County:** Yolo  
**Project:** Lower Elkhorn Basin Levee Setback  
**Owners:** Riverby Ranches, LLC  
**APNs:** 042-280-009, 042-280-010, and 042-280-017  
**Property Location:** West of Old River Road and North of County Road 126.  
**Zoning:** A-N (Agricultural Intensive Zone)  
**Present Use:** Walnut orchard  
**Highest and Best Use:** Walnut orchard  
**Proposed Public Use:** Flood control

**Area and Property Right to be Acquired:** 280.144 ± ac. in Fee

**Area of Remainder:** N/A

**Market Value of Required Property:**

Land Value:

280.144 ± Acres Agricultural Land @ \$24,500/ac. = \$6,863,528

Total Land \$6,863,528

Total Acquisition \$6,863,528

**Rounded to: \$6,865,000**

The market value of the property rights being purchased is based upon a market value appraisal prepared in accordance with accepted appraisal procedures. Valuation of your property is based upon an analysis of recent sales of similar property in this locality. Valuation of the land recognizes all factors influencing its current value.

**Total Payment is: \$6,865,000**

This summary of the amount offered as compensation is presented in compliance with federal and State law and has been derived from a formal appraisal. The value of any property rights retained by the owner which are not now reflected in the appraisal must be deducted from the market value shown above.

Grantor: Riverby Ranches, LLC  
a California Limited Liability Company

Project: Lower Elkhorn Basin Levee Setback

Parcel No.: 13836

## RIGHT OF WAY CONTRACT

Document No. 13836 in the form of a Grant Deed covering that property particularly described in the above instrument has been executed and delivered to Patrick J. Nolan, Associate Right of Way Agent, for the Department of Water Resources, State of California, hereinafter referred to as STATE.

In consideration of which, and other considerations hereinafter set forth, it is mutually agreed as follows:

1. a. The parties have set forth herein the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve STATE of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
- b. STATE requires Parcel No. 13836 for the Lower Elkhorn Basin Levee Setback Project, a public use for which State may exercise the power of eminent domain. GRANTOR is compelled to sell, and STATE is compelled to acquire said parcel.

Both Grantor and State recognize the expense, time, effort, and risk to both Grantor and State in determining the compensation for said Parcel by eminent domain litigation; and the compensation set forth herein for said Parcel is in compromise and settlement in lieu of such litigation.

2. STATE shall:

- a. Pay the sum of \$6,865,000 for the property described in said document to the following title company: First American Title Company for the account of Grantor, Escrow No. 4904-5424420 conditioned upon the property vesting in the State of California free and clear of all liens, leases, encumbrances (recorded and/or unrecorded), easements, assessments, and taxes, except:
  - (1) Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
  - (2) Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
  - (3) Easements or rights of way over said land for public or quasi-public utility or public purposes, if any.
- b. Pay all expenses incidental to and necessarily incurred for the conveyance of the real property to STATE, including but not limited to recording fees, title insurance charges, reconveyance fees, trustee's fees, forwarding fees and prepayment penalties.
- c. Have the authority to deduct and pay from the amount shown on Clause 2.a above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid nondelinquent assessments which have become a lien at the close of escrow, and an amount to satisfy the requirements of Section 187662 of the California Revenue and Taxation Code.
- d. In accordance with Section 18662 of the California Revenue and Taxation Code, Grantor hereby acknowledges and understands that an amount equal to 3½ percent of the purchase price in Clause 2.a above may be withheld in escrow for tax purposes.

3. Pursuant to Section 1263.025 of the Civil Code of Procedure, you are entitled to obtain an independent appraisal and to be reimbursed for the actual reasonable cost of the appraisal up to \$5,000 if certain conditions are met. For further information on the requirements for reimbursement, contact Patrick J. Nolan.
4. Title to said property shall pass immediately upon close of escrow. The issuance of any escrow instructions shall be the sole responsibility of STATE.
5. The undersigned Grantor hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to any money that may now be on deposit in said action.
6. Grantor warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and Grantor further agrees to hold State harmless and reimburse State for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of Grantor for a period exceeding one month, except as may be otherwise provided herein.
7. This transaction is subject to the approval of the Department of General Services.
8. GRANTOR warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month. GRANTOR further agrees to protect, defend, indemnify and hold harmless STATE and reimburse STATE for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of the GRANTOR for a period exceeding one month, except as may be otherwise provided herein.
9. To the best of GRANTOR's knowledge and after reasonable inquiry, GRANTOR represents and warrants the following:

During GRANTOR's ownership of the property, there have been no disposals, releases, or threatened releases of hazardous substances on, from, or under the property. GRANTOR further represents and warrants that GRANTOR has no knowledge of disposal, release, or threatened release of hazardous substances on, from, or under the property, which may have occurred prior to GRANTOR taking title to the property.

There is no pending claim, lawsuit, agency proceeding, or any administrative challenge concerning the presence or use of hazardous substances on the property.

GRANTOR has not used the property for any industrial operations that use hazardous substances. GRANTOR is not aware of any such prior use of the property.

GRANTOR has not installed any underground storage tanks, aboveground storage tanks, barrels, sumps, impoundments or other containers used to contain hazardous substances on any part of the property. GRANTOR is not aware of any such prior installations.

For the purposes of this paragraph, the term "hazardous substances" shall mean any substance which at any time shall be listed as "hazardous" or "toxic" in the regulations implementing the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC §6901, et seq.), or other federal or STATE law, or any other substance, chemical, material or waste product whose presence, nature or quality is potentially injurious to public health, safety, welfare, the environment or the property. The term "reasonable inquiry" shall mean a thorough examination of the property and all records of the property, and any examination that GRANTOR was legally obligated to conduct as a result of any judicial or administrative order, or federal or STATE law.

The acquisition price of the property being acquired reflects the fair market value of the property without the presence of hazardous substances. If the property being acquired is found to be contaminated by a

hazardous substance which may require remediation under federal or STATE law, STATE may elect to recover its clean-up costs from those who caused, contributed to, or otherwise are legally responsible for the contamination.

10. STATE's obligation to consummate the purchase of the property is subject to the completion and approval by the STATE (which completion will not be unreasonably delayed and approval will not be unreasonably withheld) of a Phase I – Environmental Assessment Report which concludes that the assessment has revealed no evidence of any recognized adverse environmental conditions, including but not limited to the presence of hazardous material in connection with the property. STATE may, at its own discretion, waive this condition in writing.
11. This contract may be modified, changed, or rescinded only by an instrument in writing executed by the parties hereto.

The foregoing representations and warranties shall survive the close of escrow and shall remain in full force and effect for the duration of this easement and shall accrue for the benefit of STATE and its successors and assigns.

This contract is subject to the approval of the State of California.

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN SHALL BE RECOGNIZED.

IN WITNESS WHEREOF, the parties have executed this contract.

GRANTOR: Riverby Ranches, LLC, a California Limited Liability Company

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

CONSENT OF TENANT

We, the Tenants of land described in this contract and/or said deed under lease with lessor, whose name is subscribed to this contract as GRANTOR, do hereby consent to the execution of said contract, and agree that all monies payable shall be paid to said GRANTOR as herein set forth.

\_\_\_\_\_ Date: \_\_\_\_\_

SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT  
Acting by and through the Central Valley Flood Protection Board  
of the State of California

RECOMMENDED FOR APPROVAL:

APPROVED:

\_\_\_\_\_  
Patrick J. Nolan,  
Associate Right of Way Agent                      Date

\_\_\_\_\_  
Jeanne M. Kuttel, Chief  
Division of Engineering

Date: \_\_\_\_\_

\_\_\_\_\_  
Matthew DeGroot  
Senior Right of Way Agent                      Date

\_\_\_\_\_  
Linus A. Paulus, Chief  
Acquisition and Appraisal Section                      Date

\_\_\_\_\_  
Angelica Aguilar, Chief  
Real Estate Branch                      Date





RECORDING REQUESTED BY

WHEN RECORDED MAIL TO:

**DEPARTMENT OF WATER RESOURCES**

Division of Engineering  
Real Estate Branch  
1416 9<sup>th</sup> Street, Room 425  
Sacramento, CA 95814

042-280-17

SPACE ABOVE THE LINE FOR RECORDER'S USE

**GRANT DEED**

LOWER ELKHORN BASIN LEVEE SETBACK  
Project YOLO BYPASS

Parcel No. 13836 (LEB-01)  
57-1760-A02

**MCCLATCHY PARTNERS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AS TO AN UNDIVIDED 31.08% INTEREST AND RIVERBY RANCHES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AS TO AN UNDIVIDED 68.92% INTEREST**, organized and existing under and by virtue of the laws of the State of California does hereby GRANT to the SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through THE CENTRAL VALLEY FLOOD PROTECTION BOARD of the STATE OF CALIFORNIA, a public agency, herein after called "GRANTEE", all that real property in the County of Yolo, State of California, described as follows:

See Exhibit "A" attached hereto and made a part hereof



EXHIBIT "A"

All that real property situated in protracted Sections 19 and 20, Township 9 North, Range 4 East, MDM, in the unincorporated area of the County of Yolo, State of California, being a portion of SWAMP LAND SURVEY NUMBERS 303, 647, and 924 described as follows:

**PARCEL 13836**

All of PARCEL THREE AND FOUR as described in that Grant Deed Document 2014-0015215-00, recorded July 14, 2014, Official Records of Said County.

EXCEPTING THEREFROM all that portion of PARCEL THREE and FOUR described as follows:

(A) That portion thereof that lies within the boundaries of the land conveyed by the City of Sacramento to the Sacramento San Joaquin Drainage District, by Deed dated May 31, 1916, and recorded November 15, 1916, in Book 91 of Deeds, at Page 2, and by Deed dated January 29, 1918, and recorded March 1, 1919, in Book 95 of Deeds, at Page 151, Official Records of Said County.


(B) That portion thereof that lies within the boundaries of the land conveyed by T.T.C. Gregory, by Deed to the Sacramento and Woodland Railroad Company, recorded January 19, 1917, in Book 91 of Deeds, at Page 136, Official Records of Said County.

(C) That portion thereof that lies within the boundaries of the land conveyed by Ray Greer, Myette Greer, and Gertrude Leeman aka Gertrude Leeman Reese to the Sacramento and San Joaquin Drainage District, by Deed dated July 13, 1965, and recorded November 26, 1965, in Book 813 of Official Records, at Page 581, Official Records of Said County

(D) That portion thereof that lies within the boundaries of the land conveyed Ray Greer, Myette Greer and Gertrude Leeman Reese to the State of California, by Deed dated March 24, 1948 recorded June 28, 1948 in Book 283, at Page 210, Official Records of Said County

ALSO EXCEPTING THEREFROM, and undivided 50% interest in all oil, gas, minerals and other hydrocarbon substances lying in, on or under the above parcels, as reserved in the Deed executed by Beatty H. Ramsey, M.D., ET AL, recorded April 23, 1984, in Book 1640, Page 136, Official Records of Said County.

Containing 280.144 acres, more or less.

  
KRISTOPHER KLIMA, PLS

4/11/19



State of California  
The Resources Agency  
Department of Water Resources  
**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

Grantor, for himself, his successors and assigns, hereby waives any claims for any and all damages which will accrue to the remaining property of grantor by reason of its severance from that portion granted herein and the construction of the improvement in the manner presently proposed.

Executed on \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**GRANTOR(S)**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }

SS

County of \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_

personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

**(CERTIFICATE OF ACCEPTANCE, GOVERNMENT CODE, SECTION 27281)**

This is To Certify, That the real property or interests therein described in the within deed to the SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through The Central Valley Flood Protection Board of the State of California, a public agency, is hereby accepted on behalf of the grantee.

Dated \_\_\_\_\_, 20\_\_\_\_.

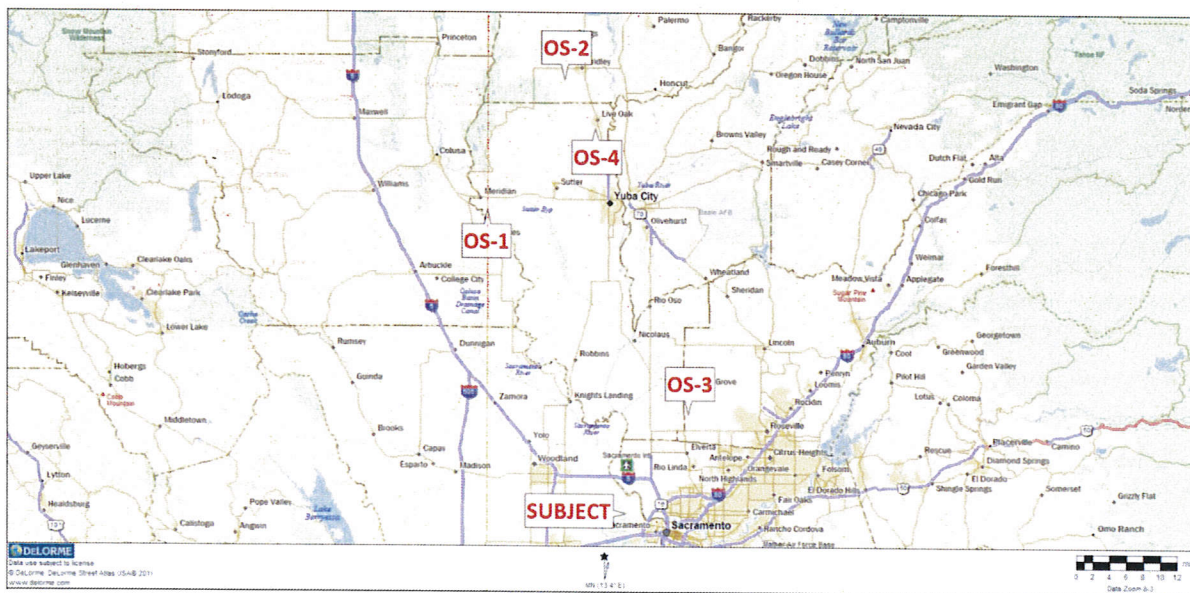
THE CENTRAL VALLEY FLOOD PROTECTION BOARD

By \_\_\_\_\_

\_\_\_\_\_  
(Title)  
DEPARTMENT OF WATER RESOURCES

## COMPARABLE ORCHARD SALES SUMMARY TABLE AND MAP

Sale#	Location	Seller	Sale Date	Sale Price	Tree Age	Size (AC)	Price / Acre
DC#	APN (s)	Buyer	Doc. No.				
OS-1	Yates Road, Meridian, California	Regency Ranch, LLC	09/25/2017				
3024	APN: 13-160-003	Nijjar Bros., LLC	0013/273	\$1,268,500	3 <sup>rd</sup> Leaf	57.66	\$22,000
OS-2	942 Neubarth Lane, Gridley, California	The McLean Family Trust	08/25/2017				
3979	APN: 021-180-002	Jon Justeson	0029540	\$1,389,750	12 and 13	54.50	\$25,500
OS-3	6001 Sankey Road, Pleasant Grove, California	Cp2 Ventures, LP	08/14/2017				
3978	APN: 017-090-059, 017-130-030	Asellus-Placer LLC	0061630	\$17,450,000	2 <sup>nd</sup> Leaf	820.40	\$21,270
OS-4	8808 Larkin Road, Live Oak, California	The G. Todd Bihlman Revocable Trust	07/29/2016				
1873	APN: 09-250-014, 09-250-034, 09-250-035	Millennium Farms, LLC	0010889	\$4,100,000	Mixed Ages	131.07	\$31,281
SUBJECT	21788 County Road 124 Yolo County, CA	Appraisal	---	---	4 <sup>th</sup> Leaf	280.144	---
	APNs: 042-330-001, -002, -006, 042-340-004 & -005						





# DEPARTMENT OF WATER RESOURCES

## Real Estate Branch Property Acquisition Information

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The property acquisition information shown below is for informational purposes only. It is not intended to give a complete statement of all State or federal laws and regulations pertaining to the purchase of property for public use, the relocation assistance program, legal definitions, or to provide any form of legal advice. Property owners are encouraged to consult their own counsel for advice and guidance.

## INTRODUCTION

This information has been prepared by the State of California, Department of Water Resources (DWR) for you as a property owner whose property may be affected by a proposed DWR project related to the State Water Project (SWP) or a flood control project of the Central Valley Flood Protection Board (CVFPB). If you own or have a leasehold interest in property that is involved, you may have wondered what will happen. Who will contact you? How much will you be paid for the portion of your property needed for the project? Who will pay for any associated transfer or escrow fees? If, because of the project, you must move, who will pay your moving costs? If you need to find another place to live, will DWR State help you? Important questions like these require specific answers. We hope this information will answer some of your questions and present a clear picture of overall procedures.

The information below discusses many important features contained in the California [Relocation Assistance and Real Property Acquisitions Guidelines](#) found in Title 25, Division 1, Chapter 6, Subchapter 1 of the California Code of Regulations. It also gives general information about public acquisition of real property that should be useful to you. If you have been notified that a portion of your property will be required for a SWP or CVFPB project, it is important that you learn your rights.

If you have more questions about the acquisition of property rights for a SWP or CVFPB project, please discuss them with the DWR agent assigned to your case.

## WHAT ARE THE STATE WATER PROJECT AND THE CENTRAL VALLEY FLOOD PROTECTION BOARD AND WHY ARE THEY NECESSARY?

Historically, the Great Central Valley suffered ravaging floods, sometimes creating an inland sea that stretched from Redding in the north to Bakersfield in the south. The Reclamation Board (now the CVFPB) was created by the Legislature to provide a coordinated and balanced effort by the State to control and divert these flood waters through the construction of bypasses and levee systems on the major waterways in the Central Valley. This work continues.

California has also faced growing overall water supply deficits for many years. One of the major reasons is that about 70 percent of the state's total water flow occurs north of Sacramento during winter, while 80 percent of the water use demand is in the southern part of the state during the rest of the year. To help solve some of this problem, the SWP was initiated in 1951 to capture and transport a portion of the flood water to areas of demand. Construction of the initial facilities began in 1957, and construction of new facilities continues.

## SOME GENERAL QUESTIONS

### WHAT RIGHT DOES DWR HAVE TO ACQUIRE A PROPERTY?

Our Federal and State Constitutions recognize the need for public agencies to acquire private property for public use and provide appropriate safeguards to accomplish this purpose. The rights of all property owners are protected by the Fifth and Fourteenth Amendments to the U.S. Constitution, the California State Constitution, and subsequent federal and state laws, most notably the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These laws require (among other things) that any public agency, including DWR, acquiring private property under threat of eminent domain, or "condemnation," must pay "just compensation" to a property owner for the rights acquired.

### HOW MUCH OF A PROPERTY CAN DWR ACQUIRE?

DWR is prevented by law from acquiring more property (or property rights, as the case may be) than what is reasonably needed for the project. Sometimes the project may require only a temporary right on a portion of a property; sometimes, a permanent easement on a portion of a property; sometimes, the project may require total ownership of a portion of a property; and, sometimes, the project may require total ownership of an entire property.

### WHO MAKES THE DECISION TO ACQUIRE A PROPERTY?

The responsibility for studying the potential sites for a project rests with a team of specially trained individuals selected to do this important job. Many months, even years, are spent in preliminary study and investigation to consider possible locations for a project. Consideration of the environmental and social effect is as much a part of location determination as engineering and cost.

Complete environmental analysis must be performed to identify sensitive habitats, cultural and archaeological resources, and endangered plant and animal species. These studies are melded with analyses and recommendations of project engineers, surveyors, real estate specialists, geologists, hydrologists, economists, planners and others to identify the best feasible location and way to build the project, with due consideration given to property lines, land uses, and ownerships. Participation by private citizens and other public agencies is actively sought during the study process so that various views can be considered. The process includes public hearings and input, which give the general public an opportunity to express their views on the locations being considered.

The final determination to proceed with a project, and the selection of the location of the project, is made by DWR after a thorough review of all of these factors.

The acquisition agent assigned the case should be able to answer any questions about the project or the selection of the property proposed to be acquired for the project.

### **HOW DOES DWR DETERMINE HOW MUCH IT WILL OFFER FOR A PROPERTY?**

DWR performs a Fair Market Value Appraisal to determine the amount of just compensation. Appraisal and purchase of properties needed for a SWP or CVFPB projects are the responsibility of DWR as the State and public agency responsible for the project. An appraiser will inspect the property and examine all of the features which contribute to its value. Information about improvements made and any other special attributes which may increase the value of the property should be given to the appraiser to ensure a fair value is assigned. The appraiser also seeks relevant data from many other sources to compare the property to other sales of similar properties in order to form an opinion of fair market value.

DWR also provides a Relocation Assistance Program for businesses and people who are displaced because of the project.

### **WHAT IS "FAIR MARKET VALUE"?**

The fair market value of the property acquired is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

### **HOW DOES AN APPRAISER DETERMINE THE FAIR MARKET VALUE OF A PROPERTY?**

Each parcel of real estate is unique. Therefore, no single formula can be devised to appraise all properties. Factors typically considered in estimating the value of real property include, but are not limited to, zoning, highest and best use, size, shape, soil type, topography, and location.

Other areas of evaluation include:

- How it compares with similar properties in the area that have been sold recently.
- How much it would cost to reproduce the structures or facilities acquired with the land, less any depreciation.
- How much rental or other income it could produce.

### **DOES THE LANDOWNER HAVE AN OPPORTUNITY TO TALK TO THE APPRAISER?**

Yes. The property owner will be contacted and given the opportunity to accompany the appraiser on his or her inspection of the property and may inform the appraiser of any special features which may add to the value to the property.

**It is in the best interest of the property owner to provide the appraiser with all useful information in order to insure that nothing of allowable value is overlooked.** If the property owner is unable to meet with the appraiser, they may wish to have a person who is familiar with the property represent them.

### **WHAT IS "JUST COMPENSATION"?**

The fair market value of a property is generally considered to be "just compensation." "Just compensation" means not only "just" to the owner or lessee of the property, but also "just" to the public, who must pay the compensation. Please note that fair market value does not take into account intangible elements such as sentimental value (which is legally non-compensable), loss of business good will (which the business owner must assert and show), loss of potential business profits, or any special value that the property may have for the owner or DWR. DWR cannot make an offer to buy the property for more than it's worth.

## **IS A PROPERTY OWNER ENTITLED TO OBTAIN AN INDEPENDENT APPRAISAL?**

In accordance with Section 1263.025 of the California Code of Civil Procedure, if the State offers to purchase property under the threat of condemnation, the property owner is entitled to seek a second opinion on the value of the property and to receive reimbursement of up to \$5,000 to pay for reasonable appraisal costs. In order to be reimbursed, the property owner must sign an Appraisal Costs Reimbursement Agreement and engage an appraiser licensed by the State of California with the Office of Real Estate Appraisers. The appraiser must be either a MAI designated appraiser or hold an equivalent designation recognized by the Appraisal Foundation.

For further information on the requirements for reimbursement and to ensure that you are aware of proper procedures, please contact DWR prior to engaging an appraiser. The request for an Appraisal Costs Reimbursement Agreement may be submitted to the Department of Water Resources, Real Estate Branch, 1416 Ninth Street, Room 425, Sacramento, California 95814.

## **WILL THERE BE PAYMENT FOR ANY LOSS IN VALUE TO THE REMAINING PROPERTY?**

If the purchase of only a part of the property reduces the unit value of the remaining property, payment will be made for the loss in value to the remainder. Also, if any remaining property would have little or no utility or value, DWR may offer to purchase the remaining property as an uneconomic remainder property to avoid a continuing burden of ownership.

## **WHEN WILL A FIRST WRITTEN OFFER BE PROVIDED?**

After the appraisal is reviewed and approved by DWR, an acquisition agent will contact the property owner with a First Written Offer to purchase the property rights required for the project. Included in the offer will be an "Appraisal Summary Statement" showing the basis for the offer.

Negotiations for the purchase of the required property will not take place before this offer is made.

## **ARE THERE ADVANTAGES TO VOLUNTARILY SELLING PROPERTY TO DWR?**

Yes. A real estate purchase by DWR is handled in the same manner as any private sale of property. However, there can be financial advantages in selling to DWR. Property owners will receive the fair market value of the property in cash. Nothing will be deducted for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The State will pay these expenses.

**Note:** This does not remove the responsibility a property owner may have for existing mortgages, liens, taxes, and other such encumbrances on the property at the time of DWR's acquisition.

## **CAN SOMEONE REPRESENT THE PROPERTY OWNER DURING NEGOTIATIONS?**

Yes. If a property owner would like to be represented during negotiations, please inform the acquisition agent assigned the case. However, DWR will not pay any representation fees or costs of negotiation.

## **CAN A PROPERTY OWNER KEEP AND MOVE THEIR HOUSE, BUSINESS, BUILDING AND MACHINERY, AND EQUIPMENT?**

The acquisition or relocation agent assigned to acquire the necessary property rights will help determine whether a house can or should be moved to another location. In the rare case where the house is movable and the property owner wishes to make such arrangements, the State will pay the fair market value of the land required, plus the reasonable cost of moving the house. There are cases, because of age, size or condition of the house where the cost of moving it is not feasible.

If a property owner operates a business on the property acquired, they may wish to keep and move fixed machinery and equipment. You may do so if the cost (based on a moving estimate) is not greater than the value of the item. If you keep the machinery and equipment, the State can only pay the lesser of the two amounts. Additionally, as an owner of a business conducted on the property to be purchased, you may be entitled to compensation for the loss of goodwill.

If any of these concepts are applicable to your situation, they will be explained fully by the agent assigned to purchase your property.

## **DOES THE PROPERTY OWNER HAVE TIME TO SELECT ANOTHER HOUSE AFTER DWR ACQUIRES THE PROPERTY?**

DWR starts to appraise properties early enough so that property owners have ample time to move prior to project construction. Like any other real estate transaction, it takes approximately two months or longer to close escrow after the right-of-way contract and deed have been signed. You will not be required to move until after escrow has closed and reasonable replacement housing is made available.



If the property owner does not want to buy another house right away, DWR may acquire the property, and the property owner may, depending on the construction schedule, rent the house back from DWR on a temporary basis. It is in the property owner's best interest, however, to look for new housing as soon as possible as renting from DWR cannot be guaranteed. Finding suitable housing before being required to move may minimize personal inconveniences and may help to avoid having to make a choice under pressure.

If the property owner wishes, DWR will, at no cost, provide assistance in finding a new house. Also, DWR must give the property owner at least a 90-day written notice before asking a property owner to move.

#### **WHAT HAPPENS TO AN EXISTING LOAN ON AN ACQUIRED PROPERTY?**

After DWR and the property owner have agreed upon a price, a DWR representative will contact all other parties having an interest in the property. As in any other real estate transaction, payment to satisfy outstanding loans or liens will be made during the escrow closing process.

#### **WHAT WILL HAPPEN TO MY GI OR CAL-VET LOAN?**

The Veterans Administration and the California Department of Veterans Affairs allow your veteran loan privileges to be transferred and to become available for coverage on another property.

A DWR representative will assist the property owner; however, it is to the owner's benefit, and their responsibility to check with the Veterans Administration or the California Department of Veterans Affairs for procedural instructions.

#### **MUST A PROPERTY OWNER ACCEPT DWR'S OFFER?**

No. The property owner is entitled to present to the State verifiable evidence as to the amount they believe to be fair market value of the property rights required for construction, and to make suggestions for changing the terms and conditions of DWR's offer. DWR will consider all evidence and suggestions, and if the information presented is justifiable; an adjustment in DWR's offer may be made.

#### **WHAT HAPPENS IF THE PROPERTY OWNER DOES NOT ACCEPT THE DWR'S OFFER?**

A property owner's rights are guaranteed by the Federal and State Constitutions and other applicable state laws. The principal right is that just compensation must be paid for the property rights required. Sometimes when private property is required for public purposes, and the property owner and DWR cannot agree on the terms of sale, the property must be acquired through an eminent domain or "condemnation" proceeding. In cases where this occurs, a decision in court may be necessary; however, it is our earnest hope to avoid such a proceeding which may include additional time and cost to all parties involved.

In order to initiate condemnation, DWR must obtain a Resolution of Necessity from a governing body. For SWP projects, the governing body is the California Water Commission, and for flood control projects it's the CVFPB. A property owner will be given an opportunity to appear before the Commission/Board to question whether public interest, necessity, planning, and location of the proposed project necessitate the acquisition of the property. Under current California law, neither the Commission nor the Board can hear or consider arguments regarding valuation; those issues must be addressed by the courts.

Upon adoption of a "Resolution of Necessity" by the Commission/Board, the appropriate condemnation suit documents will be prepared by the State (Department of Justice) and filed with the court in the county where the property is located.

It is highly recommended that you consult with your attorney regarding these legal matters.

#### **WHAT HAPPENS IN A CONDEMNATION TRIAL?**

The main purpose of the trial is to determine the amount of just compensation. Usually the trial is conducted before a judge and jury. In some cases, the judge will decide the amount of just compensation. Both the defendant (property owner) and the plaintiff (State/DWR) will have the opportunity to present evidence to the court for consideration.

It is highly recommended that you consult with your attorney regarding these legal matters.

#### **WHO PAYS THE CONDEMNATION TRIAL COST?**

The plaintiff (DWR) pays the costs of its attorney and expert witnesses (i.e., engineering and appraisal). In addition, plaintiff (DWR) will pay the jury fees and certain incidental costs of the defendant which is determined by law to be allowable costs. The fee for filing your answer with the court is an example of such costs.



## **IF A PROPERTY OWNER WISHES TO PROCEED WITH A TRIAL, MUST THEY HAVE AN ATTORNEY AND EXPERT WITNESSES?**

Most property owners choose to be represented by an attorney, although property owners have the right to represent themselves. Property owners are encouraged to consult their own counsel for advice and guidance.

## **WILL A PROPERTY OWNER BE PAID ANY MOVING EXPENSES OR ANY OTHER RELOCATION ASSISTANCE BENEFITS EVEN IF THEY GO TO COURT?**

A decision to go to court has no effect on a property owner's relocation assistance benefits including moving [expenses](#). Payment of moving expenses and relocation benefits are made separately from any the condemnation action. The property owner will be provided details of additional assistance to help displaced persons, businesses, farms or nonprofit organizations in finding, purchasing or renting, and moving to a new location. Please refer to Your Rights and Benefits as a Displacee under the Unformed Relocation Assistance Program brochure.

## **WILL A PROPERTY OWNER LOSE THEIR CURRENT PROPOSITION 13 TAX BASE?**

Section 2(d) of Article XIII A of the California Constitution and Division 1, Chapter 2, [Section 68](#) of the California Revenue and Taxation Code generally provides that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental acquisition or eminent domain proceedings. If the property owner has any questions concerning this issue, they are encouraged to contact the local Franchise Tax Board Office, and/or the County Assessor Office.

Note: Revenue and Taxation Code Division 1, Chapter 2, [Section 68](#) sets forth time limits that may affect your eligibility to retain your favorable current real property tax status. Please consult with a tax advisor, your local IRS office, and your attorney for information on how this and other tax laws affect you.

## **MUST A PROPERTY OWNER PAY CAPITAL GAINS TAX ON SALE PROCEEDS?**

According to the Internal Revenue Service, it is not necessary to pay income tax or capital gains tax if the money received is used to buy a similar property within a limited period of time. It may be helpful to read and review [IRS Publication 544](#), Chapter 1 "Gain or Loss," which addresses "involuntary conversions" and explains how federal tax rules apply to the condemnation of real property or its sale under the threat of condemnation for public purposes. In every case, however, you should discuss your particular circumstances with your personal tax advisor, your local IRS office, and your attorney.

**NOTE:** This is an informational pamphlet only. It is not intended to give a complete statement of all State or federal laws and regulations pertaining to the purchase of your property for public use; the relocation assistance program; technical legal definitions; or to provide any form of legal advice. Property owners are encouraged to consult their own counsel for advice and guidance.

## DEFINITIONS

The language used in relation to eminent domain proceedings may be new to you. These are some terms you may hear and their general meaning.

**CONDEMNATION** - The legal process by which a proceeding in eminent domain is accomplished.

**PARCEL** - Usually means the property that is being acquired.

**FAIR MARKET VALUE** - The fair market value of the property acquired is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

**JUST COMPENSATION** - The amount of money to which a property owner is entitled under the law for the purchase or damage to the property, or for relocation expenses.

**DEFENDANT** - The property owner and any other persons who may have an interest in the property.

**PLAINTIFF** - The public agency that desires to purchase the property

**COUNSEL** - An attorney or attorneys.

**TRIAL** - The hearing of the facts from plaintiff and defendant in court, either with or without a jury.

**VERDICT** - The amount of compensation to be paid for the property.

**ACQUIRE** - To purchase.

**POSSESSION** - Legal control; to have the right to use, ownership.

**ORDER FOR POSSESSION** - The instrument allowing the State to use the property of another.

**FINAL ORDER OF CONDEMNATION** - The instrument which, when recorded, transfers title to public ownership.

**PROPERTY** - The right or interest which an individual has in land, including the rights to use or possess.

**SUPPLEMENT TO STAFF REPORT: NEGOTIATION FACT SHEET**  
**PROPOSED ACTION IN EMINENT DOMAIN**  
 Central Valley Flood Protection Board (CVFPB)  
 August 30, 2019

**Project:** Lower Elkhorn Basin Levee Setback Project (LEBLS)  
**APN:** 042-280-009, -010, & -017 (Yolo County)  
**CVFPB #:** 13836  
**Owner:** Riverby Ranches (Riverby)

**Property Rights to be Acquired**

<u>CVFPB Parcel No.</u>	<u>Area</u>	<u>Rights</u>
13836	280.144 acres	FEE

**Parcel Information**

**Current Use:** Walnut Orchard  
**Zoning:** A-N (Agriculture Intensive Zone)  
**Date of First Written Offer:** April 17, 2019

**Amount of Agency's First Written Offer:**     **\$6,865,000 (\$24,500/acre)**

**Prior Interactions with Property Owner for a Different Project**

- DWR offer of \$4,961,000 made on August 1, 2016.
- Riverby counteroffer \$8,200,000 (\$29,300/acre) on November 2, 2016.

**Negotiations**

- First Written Offer (FWO) mailed April 17, 2019. FWO package included the following documents: Cover Letter, Valuation Summary Statement, Right of Way Contract, Grant Deed, Map of the Proposed Acquisition Area, Comparable Data List, and Comparable Sales Map.
- Riverby confirmed receipt of the FWO package on April 19, 2019.
- Riverby counterofferd \$34,000/acre via e-mail on May 13, 2019.
- DWR agent met with Riverby at Riverby's office in Yuba City on May 31, 2019.
- counteroffer \$27,568/acre via e-mail on June 5, 2019.
- Riverby counteroffer \$32,000/acre via phone June 19, 2019 and e-mail on June 20, 2019.
- DWR begins additional sales comparison research for Yolo and surrounding Counties.
- Riverby provides DWR a flyer indicating regional Ag Trends for Walnut Orchards at \$15,000-\$35,000/acre.
- DWR completes additional sales comparison research on July 8, 2019. The additional research does not justify \$32,000/acre.
- DWR asked Riverby if they would consider \$29,000/acre on the phone on July 3, 2019 and via e-mail on July 11th and 31st and Riverby said they would not accept that price.

### **Area of Impasse between Riverby and DWR**

Riverby counteroffer is currently at \$32,000/acre. Riverby has not provided any sufficient justification for this amount.

### **Why Necessary to Initiate Eminent Domain Action**

DWR, acting by and through CVFPB, has been unable to reach an agreement to acquire the necessary property rights through negotiation. DWR must initiate eminent domain action in order to ensure that CVFPB meets its project schedule.

## Attachment H

**Central Valley Flood Protection Board****Parcel:** 13836 RIVERBY**Agent:** Patrick Nolan**Project:** Yolo Bypass**Subproject:** Lower Elkhorn Basin Levee Setback**County:** Yolo**Location:** LEBLS**Diary**

10/23/2018 (ST) E-mail to Riverby notifying them of DWR Agent change from Surinder Tumber to Patrick Nolan.

12/19/2018 (PN) E-mail introducing myself and to ask for permission to visit the property to update our Phase I Site Assessment.

12-20-2019 (PN) E-mail from Riverby authorizing the Phase 1 site Assessment.

2/11/2019 (PN) E-mailed Riverby informing about appraisal property visit.

2/12/2019 (PN) E-mail response from Riverby authorizing Appraisal visit.

2-12-2019 (PN) Appraisal site visit completed today.

3/1/2019 (PN) E-mail to Riverby updating status that the appraisal is completed and being reviewed by DGS.

4/17/2019 (PN) Offer package mailed to Riverby Ranches for \$6,865,000. (\$24,500/acre).

4/18/2019 (PN) Follow-up e-mail to notify Riverby of the official offer package being mailed yesterday.

5/13/2019 (PN) Riverby Ranches counter offer \$34,000/acre. Riverby does not provide any justification for the price.

5/13/2019 (PN) E-mail to Riverby asking for any justification for their counter offer.

5/17/2019 (PN) Riverby response does not provide any further justification.

5/23/2019 (PN) E-mail to Riverby asking if they desire to have thier own appraisal done? Also, I asked again for more information as to why they believe their property is worth \$34,000/acre.

5/31/2019 (PN) Held meeting today with Anthony Laney and Sam Nevis of Riverby Ranches. We discussed their counter offer of \$34,000/acre as well as DWR's process for negotiations. During the meeting I informed them that I must be able to justify any amount over the Fair Market Value. I asked them to provide us information and/or urged them to get their own appraisal done. They asked me to look into the fact that 2 of the sales comps from DWR's latest appraisal were 50 acres. They asked this after I brought up to them that the reason DGS rejected thier 2016 appraisal was becuase 3 of the 5 sales comps from thier appraisal were around 40 acres. Riverby says that sales comps in the area are hard to find and that is why they had to use those smaller size comps. I said that I would like into this.

6-5-2019 (PN) E-mail to Riverby Ranch with counteroffer of \$27,568/acre. (Total \$7,723,000)

6-14-2019 (PN) E-mail to Riverby Ranch checking status.

6-19-2019 (PN) E-mail to Riverby Ranch checking status.

6-19-2019 (PN) Today I spoke on the phone with Mr. Laney of Riverby Ranches. He said they do not accept DWR counteroffer of \$27,568/acre. Riverby counters this with an offer of \$32,000/acre. Riverby mentioned that different counties produce different prices and asked me to investigate different county sales.

6-20-2019 (PN) E-mail from Riverby stating that Mr. Joshua Meyer will be handling the negotiations on behalf of Riverby Ranches moving forward.

7-3-2019 (PN) E-mail from Mr. Meyer of Riverby stating that he received a flyer advertising walnut orchards are worth up to \$35,000 per acre.

7-3-2019 (PN) E-mail to Mr. Meyer of Riverby stating that DWR is currently seeking additional walnut orchard sales within a few surrounding counties. Once this information is compiled we will get back to him.

7-3-2019 (PN) Today, spoke over the phone with Mr. Meyer of Riverby Ranches. I informed him that our additional walnut orchard sales search outside of Yolo county did not support \$32,000/acre. I also informed him that I called the company who left the flyer, Charter Realty, and I confirmed that the flyer information was solely based upon trends covering a large region of 10 counties. The flyer figures are not supported with any recent sales. Lastly, I asked if Riverby would truly consider an offer of \$29,000/acre if we were to make that offer. Mr. Meyer said no.

7-5-2019 (PN) I followed up this phone conversation with Mr. Anthony Laney of Riverby Ranches to inform him of my conversation of Mr. Meyer and to add that I did not appreciate some things said by Mr. Meyer and his overall attitude and that I would prefer to continue the negotiations with him instead.

7-12-2019 (PN) E-mail from Anthony Laney of Riverby Ranches stating that I should continue to work with Mr. Meyer.

7-31-2019 (PN) E-mail to Riverby Ranch notifying them that due to the timeline of our project, we are needing to move forward with seeking a resolution of necessity in parallel with our continued negotiations. As such, we would like to inform them that they will soon be receiving a letter regarding the Notice of Intent to adopt a Resolution of Necessity at the Central Valley Flood Protection Board meeting August 30, 2019. We also re-asked if Riverby would accept a counteroffer of \$29,000 per acre?

7-31-2019 (PN) E-mail response from Mr. Meyer of Riverby asked, "Is that an bona fide offer or just a hypothetical offer? Do you have authority to make an offer?"

7-31-2019 (PN) E-mail response from my supervisor, Matthew DeGroot, "To put it simply, if the Riverby group confirms that an offer at \$29,000/acre would be accepted, we will follow-up this email with a formal offer at that price. There is a quiet a bit of paperwork that needs to be done before we can get the formal offer over to you, however if we have a meeting of the minds at \$29,000/acre, we will bring that process immediately.

-Matt

7-31-2019 (PN) E-mail response from Mr. Meyer of Riverby states, "No, we do not accept your offer of \$29,000 per acre. Our last counter-offer was \$32,000, and we believe the property is worth much more than that. In addition to being a top quality walnut orchard just now coming into production, the property's proximity to the City of West Sacramento enhances its value for environmental mitigation, recreation and/or development uses. We are confident that if you resort to litigation to purchase this property, we will be able to convince a jury that it is worth much more than your offer. If you had made this offer when we first starting talking with your office over two years ago, we may have been able to accept, but since then we have incurred additional growing and interest costs."

-Josh Meyer

7-31-2019 (PN) E-mail response from my supervisor, Matthew DeGroot, " Thank you for your quick response. I understand your position. We will continue to consider your counter-offer as we move forward on these parallel paths. As always, if you could provide us with any additional information (recent sales comparables, etcâ€¦ ) that would help us justify a price of \$32,000/acre, that would be very helpful.

Thank you,

-Matt



**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Ste. 170  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682



August 5, 2019

Riverby Ranches, LLC  
1624 Poole Boulevard  
Yuba City, CA 95953

Subject: APNs # 042-280-009, -010, and -017- Notice of Intent to Adopt Resolution of Necessity to Acquire Certain Real Property or Interest in Real Property by Eminent Domain

Dear Riverby Ranches, LLC:

This letter serves as notice that the Central Valley Flood Protection Board (Board) at its August 30, 2019 Board Meeting will consider adopting a Resolution of Necessity (Resolution) to acquire the above – referenced property by eminent domain. You are being notified as the owner of this property, or an interest therein, pursuant to the California Code of Civil Procedure (CCP) Section 1245.235. You and/or your representative are invited to attend the Board meeting and present testimony to the Board on this matter.

The CCP provides procedures for public agencies to acquire private property for public use. It requires that every agency, which intends to condemn property, notify the owners of its intention to condemn. Section 1240.030 of the CCP provides that the power of eminent domain may be exercised to acquire property for a proposed project if the following conditions are established:

- (1) The public interest and necessity require the proposed project;
- (2) The proposed project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury; and
- (3) This property is necessary for the project.

Section 1245.230 of the CCP further requires that the offer required by Government Code Section 7267.2 has been made to the owner of record.

The Board, at its August 30, 2019 meeting, will consider if the above conditions concerning your property have been met and, if so, decide whether to adopt a Resolution. The Board Meeting is scheduled to take place as follows:

**Central Valley Flood Protection Board August 2019 Meeting**

Date: August 30, 2019  
Time: 9:00 a.m.  
Location: Sacramento City Hall Building  
1<sup>st</sup> Floor Council Chambers  
915 I Street  
Sacramento, California 95814

A Resolution, if adopted, will constitute official authorization for the Department of Water Resources (DWR), on behalf of the Board, to acquire the property, or property interest therein, by exercise of the power of eminent domain. All issues related to the compensation to be awarded for the acquisition of the subject property(ies) will be resolved in the eminent domain proceeding.



A description of the required property that is the subject of this Resolution is attached to this Notice and is marked Exhibit A.

The State proposes to acquire Board Parcel No. 13836 (Yolo County Assessor's Parcel Numbers 042-280-009, -010, and -017) through the exercise of the power of eminent domain for the Lower Elkhorn Basin Levee Setback Project.

The property rights to be acquired are:

Fee: 280.144

You are invited to appear before the Board to comment on the findings necessary for the proposed Resolution of Necessity. If you wish to appear in person at the Board Meeting, you must notice the Board in writing of your intent to do so within 15 days from the mailing of this Notice. Your written request to appear should include a statement indicating which of the three conditions listed in the first paragraph above you contend have not been met.

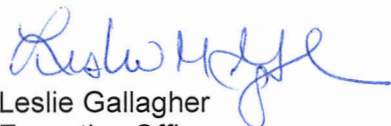
In lieu of personally appearing before the Board at its August 30, 2019 meeting, the Board will consider any written comments you may wish to submit pursuant to this notice. The Board will consider written objections so long as they are filed within the 15-day period to respond set forth above. All written objections filed with the Board within the 15-day period will become part of the official record of the August 30, 2019 meeting.

Please send any written comments or requests to:

Andrea Buckley  
Central Valley Flood Protection Board  
3310 El Camino Ave., Suite 170  
Sacramento, CA 95821

If you have any questions regarding this matter, please call Matt DeGroot, Senior Right of Way Agent, Division of Engineering, DWR, at (916) 653-9906.

Sincerely,



Leslie Gallagher  
Executive Officer

Enclosures

cc: Matt DeGroot, Senior Right of Way Agent  
Department of Water Resources  
Division of Engineering, Real Estate Branch

EXHIBIT "A"

All that real property situated in protracted Sections 19 and 20, Township 9 North, Range 4 East, MDM, in the unincorporated area of the County of Yolo, State of California, being a portion of SWAMP LAND SURVEY NUMBERS 303, 647, and 924 described as follows:

**PARCEL 13836**

All of PARCEL THREE AND FOUR as described in that Grant Deed Document 2014-0015215-00, recorded July 14, 2014, Official Records of Said County.

EXCEPTING THEREFROM all that portion of PARCEL THREE and FOUR described as follows:

(A) That portion thereof that lies within the boundaries of the land conveyed by the City of Sacramento to the Sacramento San Joaquin Drainage District, by Deed dated May 31, 1916, and recorded November 15, 1916, in Book 91 of Deeds, at Page 2, and by Deed dated January 29, 1918, and recorded March 1, 1919, in Book 95 of Deeds, at Page 151, Official Records of Said County.

(B) That portion thereof that lies within the boundaries of the land conveyed by T.T.C. Gregory, by Deed to the Sacramento and Woodland Railroad Company, recorded January 19, 1917, in Book 91 of Deeds, at Page 136, Official Records of Said County.

(C) That portion thereof that lies within the boundaries of the land conveyed by Ray Greer, Myette Greer, and Gertrude Leeman aka Gertrude Leeman Reese to the Sacramento and San Joaquin Drainage District, by Deed dated July 13, 1965, and recorded November 26, 1965, in Book 813 of Official Records, at Page 581, Official Records of Said County

(D) That portion thereof that lies within the boundaries of the land conveyed Ray Greer, Myette Greer and Gertrude Leeman Reese to the State of California, by Deed dated March 24, 1948 recorded June 28, 1948 in Book 283, at Page 210, Official Records of Said County

ALSO EXCEPTING THEREFROM, and undivided 50% interest in all oil, gas, minerals and other hydrocarbon substances lying in, on or under the above parcels, as reserved in the Deed executed by Beatty H. Ramsey, M.D., ET AL, recorded April 23, 1984, in Book 1640, Page 136, Official Records of Said County.

Containing 280.144 acres, more or less.

  
KRISTOPHER KLIMA, PLS 4/11/19

