



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

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May 13, 2005

Ms. Debbie H. Moreno
North Region Right of Way Manager
Department of Transportation
P.O. Box 911
Marysville, CA 95901-0911

Subject: Public Agency Acquisition of Land Enrolled in Williamson Act Contracts,
Widening State Route 16, Yolo County

Dear Ms. Moreno:

Thank you for your letter of April 8, 2005, providing the Department of Conservation (Department) with additional information regarding notice of the Department of Transportation's (Caltrans) possible acquisition of land enforceably restricted by Williamson Act contracts. The purpose of the acquisition is to widen and improve State Route (SR) 16 from Brooks to Madison (PM 18.8 – 31.6) in Yolo County (County). Depending on design options chosen, the project would convert between 146 and 169 acres of farmland, of which 120 to 135 acres would be Prime Farmland. Of this total, the project proposes acquisition of 140 acres of contracted land from several parcels, most of which are designated Prime Farmland.

Required Findings

State Route 16 in this area passes along both contracted and noncontracted land. The previous letter from Caltrans did not address the required findings (Government Code section 51292). This letter provides a map of the subject route and an explanation as to why Williamson Act land is required as opposed to noncontracted land.

Beginning at Brooks, contracted land is required in order to avoid disrupting the Cache Creek Casino and to improve an undesirable curve and driveways in front of the Casino. From this point to just west of Capay, the route requires contracted land for safety design reasons, or contracted land on both sides of the route must be impacted. In addition, the goal of minimizing impacts to Taylor Creek requires impacting contracted land. From just west of Capay to County Road 85B, creating a larger radius for a sharp

curve requires contracted land as do standard roadway geometrics and realigning County Road 85B (currently on a curve) between two curves. From this point to Madison, the design route does not impact contracted land except as required to minimize impacts to the Esparto wastewater treatment plant and to shift the roadway away from homes, businesses and wastewater treatment ponds in Madison.

At each point along the design route that requires contracted land, it appears that noncontracted land is not reasonably feasible. It appears, therefore, that this explanation and supporting documentation could support making the finding in section 51292(b). Although the finding in section 51292(a) is not addressed, it appears from the explanation above and the general purpose of the project that locating on contracted land was not primarily because of the lower cost of the land being in an agricultural preserve but rather because of design and other considerations. It appears, therefore, that making the finding in section 51292(a) could be supported.

Eminent Domain

The letter states that no appraisals or offers to purchase have been made regarding acquisition of the subject Williamson Act lands. However, the letter states that Caltrans follows the policies and procedures described in Chapter 8 of the Caltrans Right of Way Manual, including Exhibit 8-EX-1, Article 6. Acquisition Policies. The letter encloses Exhibit 8-EX-1. If Caltrans were to follow these policies and procedures for the subject acquisitions, it appears that it would meet the intent of section 51295 regarding voiding the subject contracts with respect to the land so acquired. Please understand, however, that the Department does not provide counsel regarding eminent domain law but encourages Caltrans to obtain legal counsel for this purpose.

CEQA

Caltrans will circulate a Draft Environmental Impact Report for this project in August 2005. A preliminary evaluation of farmland conversion using the Federal Farmland Impact Rating resulted in a score less than the threshold of 160 (157). Because of this, because the average acquisition will be two acres per parcel and because Caltrans will try to apply a 40-acre conservation easement for Swainson Hawk habitat mitigation to Prime Farmland, the preliminary consideration is that farmland will not be seriously impacted by the project.

The Department recommends that Caltrans re-evaluate the project's farmland conversion impacts using the California Land Evaluation and Site Assessment (LESA) model that has been adapted for use in California. It is recommended by CEQA and is available on the Department's website or by contact noted below. In addition, we recommend that Caltrans consider that farmland conversion in seemingly small amounts can have a significant cumulative impact, especially when it involves Prime

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Farmland. Further, a number of the conversions for this project exceed the stated two-acre per parcel average. And finally, termination of Williamson Act contracts for 140 acres of mostly Prime Farmland is significant by virtue of the premature termination of their publicly financed protections against development.

The Department recommends that Caltrans mitigate all of the converted farmland by the use of agricultural conservation easements on land of equal quality on an acre per acre basis or by donation of an in lieu mitigation fee to an agency that specializes in the stewardship of such easements. Such mitigation would meet CEQA requirements and be consistent with local mandates in Yolo County.

Substandard Parcels

The Department advises the County to review the contracted parcels proposed for acquisition to determine whether they will continue to meet minimum size requirements under section 51222. We recommend that nonrenewal be initiated for any substandard parcels.

Additional Notification

Please be advised that pursuant to Government Code §51291(d), the Department must be notified of any proposed, significant changes to the project. The Department must also be notified within 10 days when the property is actually acquired (Government Code §51291(c)). If Caltrans determines not to locate the proposed public improvement on the subject property or any part thereof, before returning the land to private ownership, it must notify the Department and local governing body. The land must be reenrolled in a new contract or encumbered by an enforceable restriction at least as restrictive as that provided by the Williamson Act (Government Code §51295) and subject contract. If you have any questions, please contact Bob Blanford, Research Analyst, at (916) 327-2145.

Sincerely,


Dennis J. O'Bryant
Acting Assistant Director

cc: The Honorable Dick Fisher
Yolo County Assessor
625 Court Street, Room 104
Woodland, CA 95695-3448

Board of Supervisors
Yolo County
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