Project Delivery Directive

To:	*Project Delivery Employees*	Number: PD-02
		References: *PDPM Chapter 18* *R/W manual Chap. 6-8* *SER Vol. 1 Chap. 10* *Deputy Directive-16* *Deputy Directive-23R1*
		Effective Date: 04/03/09
		Supersedes: *August 16, 1995 Memo, Approval Process for Acquisition of Hazardous Waste Contaminated Property*
		Review by: 04/01/12

TITLE: Contaminated Property Acquisition

DIRECTIVE

The California Department of Transportation (Department) shall avoid contaminated properties, have responsible parties accept responsibility for remediation, and seek reimbursement from responsible parties when remediation and/or monitoring must be conducted. All properties, including those acquired by an implementing agency, shall be investigated for contamination before being considered for incorporation into the State right of way. Property containing or potentially containing contamination shall only be acquired or accepted if the benefits and risks are documented, available risk reduction mechanisms are employed, and a policy exception is approved by Department management using criteria established by the Department's Chief Engineer.

BACKGROUND

The Department preserves and enhances California's resources and assets and efficiently delivers projects by acquiring clean, uncontaminated property. Taking possession of soil and groundwater contaminated property has substantial short and long-term costs and liabilities. In the short term, the cost or time needed for cleanup of a property may result in project delays, increased costs, or actual project failure. In the long term, ownership of contaminated property exposes the Department to lawsuits and future regulatory requirements. The remediation of a severely contaminated property may extend well beyond the life of the project for which the property was acquired and remediation costs may exceed all reasonable predictions. Once the project is completed, funding for

ongoing remediation is no longer readily available and meeting regulatory requirements becomes problematic. The Department also assumes responsibility in perpetuity for waste generated from the property and sent to a landfill.

DEFINITIONS

Acquisition is securing property rights necessary for a project.

Contaminated means that hazardous materials have been released into the soil, surface water, groundwater, or air. The hazardous material released into these media is contamination.

Hazardous Material is any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis to believe would be injurious to the health and safety of persons or harmful to the environment if released.

Implementing Agency is that entity charged with successful completion of each project component as defined in Deputy Directive-23R1 and GC Section 14529 (b).

RESPONSIBILITIES

Chief Engineer:

- Periodically updates the criteria for management level exception approvals and issues an update memo.
- Expeditiously reviews and approves or denies submitted exception requests.
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Chief, Divisions of Design, Environmental Analysis, Project Management, and Right of Way and Land Surveys:

- Incorporate this Directive into applicable manuals within one year or review it within three years of issuance.
- Ensure that this Directive is delivered to the target audience in their division.
- Provide guidance and training on the assessment and avoidance of contaminated property.

- Provide explicit guidance on the exception process for the acquisition or acceptance of contaminated parcels in their manuals (found in the attached "Interim Project Process Contaminated Property Acquisition" until incorporation into the manuals is completed).
- Periodically recommend updates to the implementation process and to the criteria for management level approvals to the Chief Engineer.
- Expeditiously review exception requests from the Districts and make recommendations to the Chief Engineer as appropriate.

District Directors:

- Ensure that this Directive is followed for all properties within their District considered for incorporation into the State right of way.
- Execute approval authority for all policy exceptions to acquire or accept contaminated property within the criteria established for their delegated authority.
- Sign exception request transmittals, indicating district approval, when the liability exceeds the criteria and the exception must be approved by the Chief Engineer in order to proceed.
- Ensure funding and commitments are in place and responsibilities assigned for all remediation activities not funded by the project.

Implementing Agency Project Manager: Coordinates with hazardous waste (HW), right of way (R/W), legal and design staff to ensure all tasks necessary for successful project delivery are performed, including those relating to this policy.

Legal: Provides legal support for property acquisitions as requested, and in all cases when the Department's Chief Engineer's approval is required for a policy exception.

Project Engineer: Works with the Project Manager, HW and R/W to ensure that project design avoids contaminated property whenever possible and incorporates risk reduction features when avoidance is not possible.

Right of Way: Ensures that property is acquired in compliance with this policy.

Hazardous Waste: Ensures that properties are properly investigated for contamination so that adequate information is available for risk management decisions related to design, property acquisition, and legal liability.

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4/9/09
Date Signed