



Consideration of Action on Resolution of Necessity for the Perris Dam Emergency Release Facility (ERF) (Action Item)

Introduction

Lake Perris, located in Riverside County, is the southern terminus for the State Water Project. The Department of Water Resources (DWR) is advancing the Perris Emergency Release Facility Project (ERF Project), which will safely route the flow of water during an emergency drawdown that requires the rapid lowering of Lake Perris. Flows would be directed by levees into a channel that would ultimately flow into the Perris Valley Storm Drain. The ERF Project will provide protection from a 100-year flood and a major earthquake failure to more than 6,000 residents of the City of Perris.

The location of the ERF Project is near the dam site at Lake Perris and extends approximately one mile to an existing drainage channel. DWR is planning to acquire property from the California Department of Food and Agriculture, 46th Agricultural District Association (Fairground) to construct the ERF Project. A portion of the Fairground property to be acquired by DWR is currently used for parking during Fairground events. To offset the loss of parking that will be taken by DWR's acquisition of the Fairground property, DWR needs to acquire and transfer a different parcel, accessor parcel number 302-200-005, owned by DiMatteo Properties, L.P (subject property), to the Fairground. The subject property is vacant land adjacent to the Fairground that has historically been used for Fairground parking during Fairground events.

DWR has initiated negotiations for the subject property pursuant to the State's eminent domain authority. Negotiations with the landowner have not produced an agreement for the fee title property rights, therefore DWR is requesting the Commission consider adopting a Resolution of Necessity (RON) for the subject property.

Pursuant to the Commission's Procedures for Resolutions of Necessity and Eminent Domain (Procedures), adopted August 17, 2011, revised May 17, 2023, DWR will provide a Staff Report to the Commission that includes the information and documentation necessary to ensure that all applicable requirements for a RON have been met. DWR will present evidence for the Commission to consider in support of the specific findings required for a RON pursuant to Code of Civil Procedure section 1245.230, which requires the Commission to find:

1. The public interest and necessity require the proposed project.
2. 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.

3. The property described in the resolution is necessary for the proposed project.
4. 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.

The landowner has been notified of this hearing and their right to attend and be heard or to submit written comments.

Background

California Water Code sections 250, 253, 258, 11575 and 11580 allows DWR to acquire land to construct, maintain, or operate the State Water Project. California Code of Civil Procedure sections 1245.210 and 1245.220 require DWR to obtain a RON from the California Water Commission before proceeding to initiate court action to obtain property rights from private citizens.

On May 4, 2023, the Commission received a request from DWR to begin the process of obtaining a RON, pursuant to the Commission's Procedures. The Commission notified the affected owners on July 21, 2023 of the RON hearing to be held on August 16, 2023, as required by the Commission's Procedures. The notices were mailed on July 21, 2023 from the Commission's office at 715 P Street, Sacramento, California.

This agenda item is consistent with Goal Three of the Commission's Strategic Plan, to carry out its "statutory authorities associated with the Department of Water Resources to ensure that the Department's decisions on key programs and activities are based on sound information and advance climate resiliency." Goal Three specifically includes the Commission's eminent domain obligations within its objectives.

Commission Decision

Based on the evidence provided and comments received, the Commission can:

1. adopt a RON which allows DWR to proceed with an eminent domain process;
 2. request additional information or request a site visit and delay the decision; or
 3. decide not to adopt a RON and explain its reasoning.
- DWR could address any Commission concerns at a subsequent meeting with appropriate notification.

Adoption of a RON requires a two-thirds vote of all members, which is a minimum of six votes in favor of the RON, regardless of the number of Commission members present at the meeting.

Meeting Overview

At this meeting, David Smith, Senior Right of Way Agent, and Kyle Muteff, Attorney, both with DWR, will present evidence to the Commission regarding the subject property and how the property is necessary to meet the goals of the ERF Project. They will also update the Commission about the efforts DWR has made to work with the landowner. DWR will ask the Commission to consider adopting a RON for the subject property.

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This is an action item.

Contact

Holly Geneva Stout
Attorney IV
California Water Commission
916-902-7098