

Submission S001 (John Lowrie, California Department of Conservation, October 22, 2012)

NATURAL RESOURCES AGENCY

EDMUND G. BROWN, JR., GOVERNOR



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov



October 19, 2012

VIA Email: Fresno-Bakersfield@hsr.ca.gov
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: Revised Draft Environmental Impact Report (RDEIR) for the California High Speed Train Project Fresno to Bakersfield – SCH # 2009091126

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the RDEIR for the California High Speed Train Project's Fresno to Bakersfield segment. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

This letter follows the Department's comment letter, sent October 13, 2011, regarding the unrevised Draft Environmental Impact Report (DEIR). Please refer to the original letter, attached, for specific information incorporated by reference.

DIVISION COMMENTS

The Department is pleased to see two revisions to the Agricultural Mitigation Measure #1, one requiring the California High Speed Rail Authority (CHSRA) to enter into an agreement with the Department's California Farmland Conservancy Program, and the other identifying that farmland mitigation will occur in the same region as the agricultural impact. However, the Department offered additional comments regarding the original DEIR, released in 2011. Some of the comments were not taken into account with the release of the RDEIR. The Department believes that the unaddressed issues are important enough to examine at this stage of the review process.

The AG Mitigation Measure #2: Consolidate Non- Economic Remnants¹ from the original DEIR has been eliminated and in place, an expanded Farmland Consolidation Program has been substituted².

¹ Department of Conservation, Division of Land Resource Protection letter. October 13, 2011. Pages 5-8.

² Fresno to Bakersfield Revised DEIR and Supplemental EIS. Volume I. Section 3

The Department of Conservation's mission is to balance today's needs with tomorrow's challenges and foster intelligent, sustainable, and efficient use of California's energy, land, and mineral resources.

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The California High Speed Train Project Fresno to Bakersfield project will cut through established parcels, creating segments that are bounded on one side by the project and on all others by major infrastructure (i.e. road, highway, residential neighborhood, and/or commercial development). However, the description for the proposed Farmland Consolidation Program states that it will only sell remnant parcels to neighboring landowners; and the proposed Farmland Consolidation Program does not consider the slivers or islands ("islands") that will be left over. Most of these islands cannot be consolidated with neighboring farmland and/or cannot be accessed safely for agriculture production purposes, and the collective loss of these islands will result in a permanent conversion of farmland that should be considered part of the cumulative direct impact to farmland acreage and lost production. Therefore, the Department requests that the Authority count these islands toward the directly impacted acreage for consideration under AG Mitigation Measure #1. The original letter contains both a diagram illustrating the confined nature of these island acres, and a table with examples of important Farmland acreage affected³.

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The Department notes that not only would the project create segmented acreage no longer useful for agricultural production, as discussed in the previous paragraph, but also that those segments could still be restricted by the terms of a Williamson Act Contract. The Department, in the original letter, advised CHSRA to work with local jurisdictions to resolve problems raised by the restrictions on these segments, and to act to terminate the contracts on the affected segmented portions⁴. If the CHSRA chooses not to remove the contracts through nonrenewal (Government Code (GC) § 51245), cancellation (GC §§ 51282 – 51284.1), easement exchange (GC §§ 51256 – 51256.1) or rescission (GC § 51255), eminent domain would be required to void the Williamson Act restrictions per Government Code § 51295⁵.

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As of the release date for the RDEIR, the CHSRA has not completely addressed the previous and current concerns outlined by the Department in the October 13, 2011 letter. It is requested that the Final Revised Environmental Impact Report contain a response to these issues.

Thank you for giving us the opportunity to further comment on the Revised DEIR for the California High Speed Train Fresno to Bakersfield Project. Please provide this Department with the date of any hearings for this particular action, and any notices or documents pertaining to the Final EIR. If you have questions regarding our comments, or require technical assistance or information on agricultural land conservation, please contact Meri A. Meraz, Associate Environmental Planner, at (916) 445-9411 or by mail at 801 K Street, MS 18-01, Sacramento, California 95814.

Sincerely,

John M. Lowrie, Assistant Director (Acting)
Division of Land Resource Protection

³ Department of Conservation, Division of Land Resource Protection letter. October 13, 2011. Page 6.

⁴ *Id.* at 3.

⁵ *Id.*

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Attachments: Original DOC comment letter dated Oct 13, 2011.
cc: State Clearinghouse

Farm Bureaus

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FAX (559) 237-3396

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Kings County Farm Bureau 870 Greenfield Avenue Hanford, CA 93230 kcfb@kcfb.org
Tulare County Farm Bureau PO Box 748 Visalia, CA 93279 tcfb@tulcofb.org

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FAX 559-584-8989
Kern County Planning and Community Development 2700 "M" Street., Suite 100 Bakersfield, CA 93301-2370 planning@co.kern.ca.us
Tulare County Planning Division 5961 South Mooney Boulevard Visalia, California 93277 FAX (559) 730-2653
City of Corcoran Community Development Department 832 Whitley Avenue Corcoran, CA 93212 Kindon Meik, Community Development Director kindon.meik@cityofcorcoran.com
City of Fresno Planning Division, 2600 Fresno St., Room 3043 Third Floor, Fresno, CA 93721 FAX (559) 498-1026
City of Hanford Planning Division, Melody Haigh, Senior Planner 317 N. Douty Street, Hanford, CA 93230 MHaigh@ci.hanford.ca.us
City of Shafter Planning Department 336 Pacific Avenue Shafter, CA 93263
FAX 661-746-9125
City of Tulare Planning Department 411 E Kern Ave Tulare, CA 93274
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City of Visalia Planning Division 315 E. Acequia Avenue Visalia, CA 93291
FAX 559-713-4814
City of Wasco Planning Division 746 8th Street Wasco, CA 93280 FAX (661) 758-5411

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Kern County Board of Supervisors 1115 Truxtun Avenue, 5th Floor Bakersfield, CA 93301 board@co.kern.ca.us
Kings County Board of Supervisors 1400 W. Lacey Boulevard Hanford, California 93230 FAX (559) 585-8047
Tulare County Board of Supervisors 2800 West Burrel Avenue Visalia, CA 93291 FAX (559) 733-6898

RURAL RESOURCES AGENCY

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DEPARTMENT OF CONSERVATION

Managing California's Working Lands

DIVISION OF LAND RESOURCE PROTECTION

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PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

October 13, 2011

VIA FACSIMILE (916) 322-0827

Mr. Dan Leavitt
California High speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Subject: DEIR for the California High Speed Train Project Fresno to Bakersfield - SCH# 2009091126

Dear Mr. Leavitt:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the DEIR for the California High Speed Train Project Fresno to Bakersfield. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

Project Description

The California High-Speed Train System (HST system) will provide intercity, high-speed service on more than 800 miles of tracks throughout California, connecting the major population centers of Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego. It will use state-of-the-art, electrically powered, high-speed, steel-wheel-on-steel-rail technology, including contemporary safety, signaling, and automated train-control systems, with trains capable of operating up to 220 miles per hour (mph) over a fully grade-separated, dedicated track alignment.

The 2005 Final Program EIR/EIS for the Proposed California High-Speed Train System EIR/EIS (Statewide Program EIR/EIS, Authority and Federal Railroad Administration [FRA] 2005) provided a first-tier analysis of the general effects of implementing the HST System across two-thirds of the state. The Fresno to Bakersfield Section EIR/EIS is a second-tier EIR/EIS that tiers off two first-tier, program EIR/EIS documents, and provides project-level information for decision-making on this portion of the HST system.

The California High Speed Rail Authority (CHSRA) plans two phases. Phase 1 will connect San Francisco to Los Angeles/Anaheim via the Pacheco Pass and the Central Valley with a mandated express travel time of 2 hours and 40 minutes or less. Phase 2 will connect the

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Central Valley to the state's capital, Sacramento, and will extend the system from Los Angeles to San Diego.

The Fresno to Bakersfield HST Section includes HST stations in the cities of Fresno and Bakersfield, with a third potential station located in the vicinity of Hanford (Kings/Tulare Regional Station) that would serve the Hanford, Visalia, and Tulare area. This DEIR covers the Fresno and Bakersfield stations and are this section's beginning and ending points, or project termini.

This EIR/EIS evaluates six HST alternatives: the Burlington Northern & Santa Fe Railway (BNSF) Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, and the Bakersfield South Alternative. A recent CHSRA press release (10/5/11) has stated that an additional alternative (Hanford West Bypass Route and New Station) will be released in a Revised DEIR in the spring of 2012.

The BNSF Alternative is a single continuous alignment that extends from the northern end of the Fresno station tracks to the southern end of the Bakersfield station tracks. This is the alternative that most closely follows the preferred alignment identified in the Statewide Program EIR/EIS. The additional five alternative alignments diverge from the BNSF Alternative at various locations between Fresno and Bakersfield.

The Fresno to Bakersfield Section may include a heavy maintenance facility centrally located on the main north-south line of the HST System to support delivery, testing, and commissioning on the network's first completed segment. The heavy maintenance facility concept plan indicates that the site should encompass approximately 150 acres to accommodate guideways, maintenance shops, parking, administrative offices, roadways, power substation, and storage areas.

Agricultural Setting of the Project

According to data from the Farmland Mapping and Monitoring Program managed by the Department, there are more than 3.7 million acres of Important Farmland (Prime, Unique, and Statewide Importance as outlined under the CEQA Guidelines) in Fresno, Kings, Tulare, and Kern counties combined. Tulare and Kings Counties have the greatest percentage, 84% and 82%, respectively, of Important Farmland and Grazing Land in Williamson Act and Farmland Security Zone (FSZ) contracts, while Kern and Fresno counties have the smallest percentages, at approximately 62% and 68%, of their lands in these contracts. Protected farmlands also include lands zoned for agricultural use and lands with agricultural conservation easements. Most of the Important Farmland in the area is zoned for agriculture. In all four counties, the practice is to fence grazing areas to prevent livestock from crossing major transportation corridors, such as the BNSF Railway and State Route (SR) 41.

Protected farmlands occur along all of the alignment alternatives outside urban communities. FSZ lands are adjacent to the alignment alternatives in Kings, Tulare, and Kern counties. There is no land in FSZ contract along the alternative alignments in Fresno County.

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Acquisition via Eminent Domain or in Lieu of Eminent Domain

A Williamson Act contract is an enforceable restriction pursuant to Article XIII, §8 of the California Constitution. If a public agency intends to acquire land under Williamson Act contract for a public improvement, the acquisition must meet the requirements of acquisition by eminent domain or in lieu of eminent domain (e.g., Code of Civil Procedure 1230.010 et seq. and Government Code §7260 et seq.) in order to void the contract pursuant to Government Code §51295. The Department does not provide counsel regarding eminent domain law but encourages entities to obtain legal counsel for this purpose.

When an acquisition by a public agency with eminent domain authority, occurs without the use of eminent domain power, the contract remains in effect until and unless terminated by nonrenewal (§51245), cancellation (§51282 – 51284.1), easement exchange (§51256 - 51256.1) or rescission and entry into an open space easement (§51255). Since the contract continues in effect, the uses on the land proposed by a public agency must be compatible with the contract, local rules and ordinances, and Williamson Act statute. If an agency does not have eminent domain authority or chooses not to carry out its eminent domain authority, then the project should be pursued through the termination processes mentioned above.

If the California High Speed Rail Authority has not already done so, the Department advises notification of Fresno, Kings, Kern, and Tulare Counties that the acquisition of portions of some of the listed parcels may result in parcel sizes below the minimum prescribed for Williamson Act contracted parcels pursuant to Government Code §51222. If this occurs, either the aforementioned counties or the landowner should initiate nonrenewal on the remnant parcels.

The Division has received notification from the CHSRA and is currently preparing a response on public acquisition notification process (§51291(b)) issues in a separate letter. A copy of the Public Acquisition Notice Provisions is enclosed for your assistance.

Required Williamson Act Cancellation Findings

Under CEQA Guidelines Section 15206(b)(3), a project is deemed to be of statewide, regional or area-wide significance if it would result in the cancellation of a Williamson Act contract for any parcel of 100 or more acres.

Government Code (GC) section 51282 states that tentative approval for cancellation may be granted only if the local government makes **either** of the following findings:

- A. cancellation is **consistent** with purposes of the Williamson Act, **or**
- B. Cancellation is in the **public interest**.

The following are the requirements for the consistency findings required under GC section 51282 (above):

- 1. A notice of nonrenewal has been served,
- 2. Cancellation is not likely to result in removal of adjacent land from agricultural use,
- 3. The alternative use is consistent with the County General Plan,

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4. Discontiguous patterns of urban development will not result, and
5. There is no proximate, noncontracted land¹ which is available and suitable² for the use proposed on the contracted land, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

Sections 51282 through 51285 outlines the steps necessary for the cancellation of a Williamson Act contract. Section 51284.1 requires the notice for a tentative cancellation of a contract to be sent as soon as the cancellation application is deemed complete, but not less than 30 (thirty) days prior to the scheduled action by the Board or Council. The Board or Council must consider any comments submitted by the Department when making their findings. A notice of the hearing and copy of the landowner's petition shall be mailed to the Director of the Department of Conservation 10 (ten) working days prior to the hearing as a separate application from any CEQA document. The notice must be mailed to:

Derek Chernow, Acting Director
 Department of Conservation
 C/o Division of Land Resource Protection
 801 K Street MS 18-01
 Sacramento, CA 95814-3528

Under Government Code section 51282, the city or county must approve a request for cancellation and base that approval on specific findings that are supported by substantial evidence. When cancellation is proposed, the Department recommends that a discussion of the findings be included in the CEQA document.

Mitigation Measures in the DEIR

The Fresno to Bakersfield DEIR provides two mitigation measures for the loss of Important Farmland. They are quoted below for reference:

Ag-MM #1: Preserve the Total Amount of Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, and Unique Farmland. Coordinate with DOC to identify suitable land for mitigation and purchase agricultural conservation easements from willing sellers at a ratio of no less than 1:1, to preserve Important Farmland in an amount commensurate with the quantity and quality converted farmlands. Work directly or through donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and

¹ "Proximate, noncontracted land" means land not restricted by contract, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land (GC section 51282).

² "Suitable" for the proposed use means that the salient features of the proposed use can be served by the land not restricted by contract. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels (GC section 51282).

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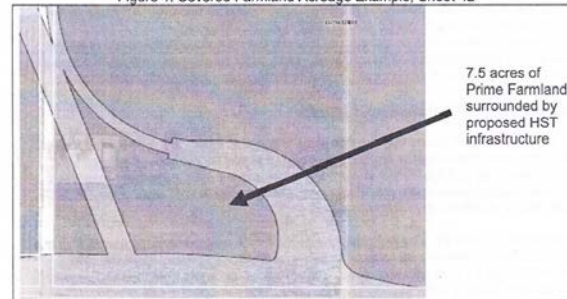
stewardship of agricultural conservation easements (e.g., Central Valley Farmland Trust, Sequoia Riverlands Trust, and resource conservation districts). Establish easements in the same agricultural regions as the impacts occur.

Ag-MM #2: Consolidate Non-Economic Remnants. Create a farmland consolidation program to sell non-economic remnant parcels to neighboring landowners for consolidation with adjacent property with the goal of providing for continued agricultural use on the maximum feasible amount of non-economic remnant parcels.

Mitigation Measure Ag-MM #2 deals with severed parcels with respect to the conversion of farmland. The HST Footprint Appendix 3.1-A³, shows multiple parcels that are severed by being bounded on one or two sides by the proposed HST and on another side by a major road, highway, residential neighborhood, irrigation canal and/or completely bounded by HST track and, as such, have resulted in slivers or islands of farmland. These slivers or islands are not identified as being a component of the 'direct effects' to agricultural land in the DEIR.

For example, the severed farmland acreage on Sheet 42 (Identification number 002160004000), per the DEIR, does not qualify for mitigation as specified by the direct effect or permanent impact classification although it is bounded on all sides by HSR proposed infrastructure. Refer to Figure 1 below:

Figure 1: Severed Farmland Acreage Example, Sheet 42



It is highly advisable that the severed acreage in these parcels be given direct-effect-permanent impact status because this acreage cannot be consolidated with neighboring farmland and/or cannot be accessed safely for agriculture production purposes. Table 1 includes examples of acreage that should be added to the values outlined in Mitigation Measure Ag-MM #1.

³ Fresno to Bakersfield DEIR in the Vol II: Appendix 3.1-A Parcels within HST Footprint August 2011

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Table 1: Severed Farmland Acreage Examples Requiring Revision

Sheet Number	Identification Number (APN)	Acreage bounded by infrastructure and proposed HST and not farmable (acres)	Important Farmland Category
21	04216003	1.0; 1.0	Prime; Unique
23	04218803	1.7	Prime
23-25	38505114S	4.6 ; 1.1	Prime; Unique
25	0422900S	4.0	Prime
32	05602063S	6.3; 0.7	Prime; Statewide
42	002160004000	7.5	Prime
43	002200039000; 002200040000	9.7; 2.4	Prime; Prime
44	002190006000	6.1; 0.4	Prime; Statewide
72	028260044000	19.8	Statewide
74	028290007000	2.5	Statewide

The Division believes that Mitigation Measure Ag-MM #2 is not entirely feasible nor enforceable because it does not do the following:

- Specify the agency responsible for creating the farmland consolidation program,
- Designate a completion deadline for the farmland consolidation program when all the non-economic remnants will be sold to neighboring landowners,
- The mitigation measure does not ensure that it is fully enforceable because of permit conditions, agreements or other measures, or by incorporating the mitigation measure into the plan, policy, or project design (Public Resources Code section 21081.6(b))

Severed Parcels and Farmland Protection Policy Act

In Section 3.14-2, the DEIR states that the Farmland Protection Policy Act (FPPA) "applies to projects and programs sponsored or financed in whole or in part by the federal government". The DEIR further states that the "FPPA implementing regulations spell out requirements to ensure that federal programs, to the extent practical, are compatible with state, local, and private programs and policies to protect farmland".

Mitigation Measure Ag-MM #2 does not comply with the FPPA requirements to ensure that the land severed will be compatible with local programs and policies to protect farmland. For example, Kern County's Implementation Measure for Resources states that those "Class I or II soils and a surface delivery water system shall be conserved through the use of agricultural zoning with minimum parcel size provisions." The mitigation measure Ag-MM #2 fails to address the minimum parcel size provision. A lot-line adjustment is a practical way to remedy this problem.

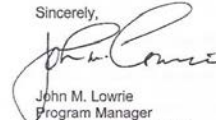
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It is highly advised that the Mitigation Measure Ag-MM #2 be revised by stating that:

- The California High-Speed Rail Authority Right of Way Agency is the responsible agency;
- The completion deadline for the consolidation program will be within 5 years after the Fresno to Bakersfield Section is finished or connected to the other HST sections (whichever comes first);
- The Right of Way Agency will work with landowners and local government to complete lot line adjustments (including funding these adjustments) to bring the subminimum severed parcels back into compliance with agricultural zoning for that county or city.

Thank you for giving us the opportunity to comment on the DEIR for the California High Speed Train Project Fresno to Bakersfield. Please provide this Department with the date of any hearings for this particular action, and any staff reports pertaining to it. If you have questions regarding our comments, or require technical assistance or information on agricultural land conservation, please contact Meri Meraz, Environmental Planner, at 801 K Street, MS 18-01, Sacramento, California 95814, or by phone at (916) 445-9411.

Sincerely,



John M. Lowrie
 Program Manager
 Williamson Act Program

Enclosed: Public Acquisition Notice Provisions

cc: State Clearinghouse,

Farm Bureaus

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 Tulare County Farm Bureau PO Box 748 Visalia, CA 93279 tcfb@tulcofb.org

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 FAX 559-584-8989

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6898

LAND CONSERVATION (WILLIAMSON) ACT PUBLIC ACQUISITION NOTIFICATION
PROCESS

The following is information about public acquisition and the notification process for
public acquisition of land located in an Agricultural Preserve and/or under Land
Conservation (Williamson) Act contract:

What is Public Acquisition? (PA)

- Acquisition of land located in an "agricultural preserve" by a "public agency" or
"person" (Government Code section 51291, subd. (a)) for a "public improvement"
as defined by Government Code section 51290.5 (which includes interests in real
property).

When is Notice Required?

- Whenever it appears that land within an agricultural preserve may be required by
a public agency or person (acting on behalf of a public agency) for a public use,
the public agency or person shall advise the Director of Conservation and the
local governing body responsible for the administration of the agricultural
preserve of its intention to consider the location of a public improvement within
the preserve (Government Code section 51291(b)).

What Notice is not Notice.

- Public Acquisition Notice must be provided separately from CEQA environmental
notice. CEQA Notice does not equal Williamson PA Notice.

What are the Legal Requirements for Notice?

- The requirement to notice occurs three times in Williamson Act statute.

FIRST NOTICE: A PA must notify (1) the Director of the Department of Conservation
and (2) the local jurisdiction administering the agricultural preserve (City/County) when
the PA has the intention to acquire land in an agricultural preserve for a public purpose
(Government Code section 51291(b)).

The **First Notice** prior to acquisition should include the following information:

1. The public agency's explanation of [its] preliminary considerations of the findings
of Government Code section 51292 (a) and (b));
 2. A description of the agricultural preserve land the public agency intends to
acquire for the public improvement;
 3. A copy of any Williamson Act contract which pertains to the subject land
(Government Code section 51291(b)).
- The Department must be notified in advance of any proposed public acquisition
(Government Code sections 51290-51295), and specific findings must be made
by the public agency.
 - The public agency must consider the Department of Conservation's comments in
response to the first notice prior to taking action on the acquisition.
 - The property must be acquired by eminent domain or in lieu of eminent domain in
order to void the contract (Government Code section 51295).

Updated October 28, 2009
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LAND CONSERVATION (WILLIAMSON) ACT PUBLIC ACQUISITION NOTIFICATION
PROCESS (Continued)

2

SECOND NOTICE:

Second Notice occurs within 10 days of acquisition and should include:

- After acquisition (escrow has closed), the PA shall notify the Director of Conservation within 10 working days (Government Code Section 51291 (c));
1. The notice shall include a general explanation of the decision and the findings made pursuant to section 51292.
 2. A general description, in text or by diagram, of the agricultural preserve land acquired (a vicinity map is good);
 3. And, a copy of any applicable Williamson Act contract(s).

THIRD NOTICE (if needed):

- If there is a significant change in the public improvement, the PA must provide notice to the Department and the local jurisdiction (e.g. the amount of land acquired increases or decreases, or project design changes) (Government Code section 51291(d)); **OR**
- If the PA decides not to acquire the property and/or decides to return the property to private ownership;
- If the PA decides not to use the land for the public improvement the land must be placed under a contract that is as restrictive as the one it was under before acquisition occurred (Government Code Section 51295).

All required Notices should be sent to:

Bridgett Luther, Director
Department of Conservation
Division of Land Resource Protection
801 K Street, MS 18-01
Sacramento, CA 95814-3528

Updated October 28, 2009

ACQUISITION NOTIFICATION PROVISIONS OF THE WILLIAMSON ACT

Notification provisions of the Williamson Act (Government Code Section 51291) require an agency to notify the Director of the Department of Conservation of the possible acquisition of Williamson Act contracted land for a public improvement. Such notification must occur when it **appears** that land enrolled in a Williamson Act contract may be required for a public use, being **acquired**, the original public improvement for the acquisition is **changed**, or the land acquired is **not used** for the public improvement. The local governing body responsible for the administration of the agricultural preserve must also be notified.

NOTIFICATION (Government Code Section 51291 (b))

The following information must be included in the notification correspondence.

1. The total number of acres of Williamson Act contracted land to be acquired and whether the land is considered prime agricultural and according to Government Code Section 51201.
2. The purpose for the acquisition and why the parcel was identified for acquisition. If available, include documentation of eminent domain proceedings or a property appraisal and written offer in lieu of eminent domain per GC §§7267.1 and 7267.2 to void the contract per §51295; include a chronology of steps taken or planned to effect acquisition by eminent domain or in lieu of eminent domain.)
3. A description of where the parcel(s) is located.
4. Characteristics of adjacent land (urban development, Williamson Act contracts, noncontract agricultural, etc.)
5. A vicinity map and a location map (may be the same as #8)
6. A copy of the contract(s) covering the land.
7. CEQA documents for the project
8. **The findings required under GC Section 51292, documentation to support the findings and an explanation of the preliminary consideration of Section 51292** (Include a map of the proposed site and an area of surrounding land identified by characteristics and large enough to help clarify that no other, noncontract land is reasonably feasible for the public improvement).

ACQUISITION (Government Code Section 51291 (c))

The following information must be included in the notification when land within an agricultural preserve has been **acquired**. The notice must be forwarded to the Director within **10 working days** of the acquisition of the land. The notice must also include the following:

1. A general explanation of the decision to acquire the land, and why noncontracted land is not available for the public improvement.
2. Findings made pursuant to Government Code Section 51292, as amended.
3. If the information is different from that provided in the previous notice sent upon consideration of the land, a general description of the land, and a copy of the contract covering the land shall be included in the notice.

SIGNIFICANT CHANGE IN PUBLIC IMPROVEMENT (Government Code Section 51291 (d))

Once notice is given as required, if the public agency proposed any significant change in the public improvement, the Director must be notified of the **changes** before the project is completed.

LAND ACQUIRED IS NOT USED FOR PUBLIC IMPROVEMENT (Government Code Section 51295)

If the acquiring public agency does not use the land for the stated public improvement and plans to return it to private ownership, **before** returning the land to private ownership the Director must be notified of the action. **Additional requirements apply.** The mailing address for the Director is: **Bridgett Luther, Director, Department of Conservation, 801 K Street, MS 18-01, Sacramento, CA 95814; phone (916) 324-0850**

August 2008

Submission S001 (John Lowrie, California Department of Conservation, October 22, 2012) - Continued



Response to Submission S001 (John Lowrie, California Department of Conservation, October 22, 2012)

S001-1

Refer to Standard Response FB-Response-AG-03.

It was decided that, due to the importance of farmland, the Farmland Consolidation program should be part of the project. This will ensure that the program is undertaken and its provisions are implemented. Therefore, there was no longer a need for Mitigation Measure AG MM #2, as this program is now part of the project.

S001-2

Refer to Standard Response FB-Response-AG-03.

All remnant parcels that were considered to be potentially uneconomic were counted in the permanent project footprint described in Section 3.14, Agricultural Lands. The authority purposely used a cautious approach in estimating remnant parcels, so as to not underestimate farmland impacts. The Authority will take on long-term management of any lands that are found to be uneconomic to farm, and maintain them.

In April 2013, the Authority reached an agreement with agricultural interests on mitigation of agricultural land impacts for the Merced to Fresno Section of the HST System (Authority 2013). Under that agreement, the Authority will acquire agricultural conservation easements for its impact on Important Farmland (i.e., land classified as prime farmland, farmland of statewide importance, farmland of local importance, and unique farmland) at the following ratios:

- Important Farmland converted to nonagricultural uses either by direct commitment of the land to project facilities or by the creation of remnant parcels that cannot be economically farmed will be mitigated at a ratio of 1:1.
- Where HST project facilities would create a remnant parcel of 20 acres or less in size, the acreage of that remnant parcel will be mitigated at a ratio of 1:1.
- An area 25 feet wide bordering Important Farmland converted to nonagricultural uses by project facilities (not counting remnant parcels) will be mitigated at a ratio of 0.5:1.

S001-3

Refer to Standard Response FB-Response-AG-07.

The Authority has been in contact with the Department of Conservation as well as the

S001-3

counties, and has provided them a detailed document showing Williamson Act and FSZ contract impacts. The Authority has notified the counties of all contracts that will be impacted by the HST and the number of acres impacted.

S001-4

The Authority believes that it has addressed all the concerns of the Department of Conservation (DOC) in the letter dated October 13, 2011. Concerns of the DOC in the letter included:

- Issues with the identification of remnant parcels being included in the project footprint.
- AG-MM#2 giving severed parcels full displacement impacts.
- AG-MM#2 not complying with FPPA requirement of being compatible with local policies.
- Having the Authority be the responsible agency for the Consolidation program.
- Having a deadline on the program.
- Right-of-way agents working with landowners and governments to make sure severed parcels are in local compliance.

First the Authority counted all parcels that were considered to be potentially uneconomic in the permanent project footprint. The Authority purposely used a cautious approach in estimating remnant parcels, so as not to underestimate farmland impacts. The Authority will take on long-term management of any islands that are found to be uneconomic to farm and will maintain them.

Second, the Authority revised AG-MM#2 to become a project design feature. The design feature designated the Authority as the administrator of the farmland consolidation program; a timeline of 5 years was established for the program to run; and the program is stated to help landowners in obtaining a lot line adjustment. These revisions ensure the implementation and enforceability of the program.

In April 2013, the Authority reached an agreement with agricultural interests on mitigation of agricultural land impacts for the Merced to Fresno Section of the HST System (Authority 2013). Under that agreement, the Authority will acquire agricultural conservation easements for its impact on Important Farmland (i.e., land classified as prime farmland, farmland of statewide importance, farmland of local importance, and unique farmland) at the following ratios:

- Important Farmland converted to nonagricultural uses either by direct commitment of

Response to Submission S001 (John Lowrie, California Department of Conservation, October 22, 2012) - Continued

S001-4

the land to project facilities or by the creation of remnant parcels that cannot be economically farmed will be mitigated at a ratio of 1:1.

- Where HST project facilities would create a remnant parcel of 20 acres or less in size, the acreage of that remnant parcel will be mitigated at a ratio of 1:1.
- An area 25 feet wide bordering Important Farmland converted to nonagricultural uses by project facilities (not counting remnant parcels) will be mitigated at a ratio of 0.5:1.