

Westlands Water District

Policy for

Acquisition of Property Through Eminent Domain

I. Purpose

The purpose of this Policy is to establish procedures and standards governing the acquisition of private property for authorized public purposes by Westlands Water District (“District”) through the exercise of its power of eminent domain. The Board level policy and administrative procedure is based on the California Eminent Domain Law (Cal. Code Civ. Proc., §1230.010 et seq.), the Relocation Assistance Act (Gov. Code § 7260 et seq.), the California Code of Regulations (25 Cal. Code Regs. § 6080 et seq.) and common practices used by California public agencies. The District recognizes that eminent domain is an extraordinary governmental power and shall exercise such authority only when necessary to accomplish a lawful public purpose and when acquisition by voluntary agreement cannot be reasonably achieved.

II. Policy Statement

The District will:

1. Attempt to acquire all necessary real property interests through voluntary negotiation whenever feasible.
2. Exercise eminent domain only when:
 - The property is necessary for a public use;
 - The public interest and necessity require the project;
 - The project is planned or located in a manner most compatible with the greatest public good and the least private injury;
 - The District has reviewed the project in compliance with California Environmental Quality Act and approved the project; and
 - Good-faith efforts to acquire the property have not been successful.
3. Pay just compensation as required by Article I, Section 19 of the California Constitution and applicable law.
4. Treat affected property owners fairly, respectfully, and transparently throughout the acquisition process.
5. Comply with all requirements of the California Eminent Domain Law and applicable relocation assistance requirements.

III. Applicability

This Policy applies to all acquisitions of fee title, easements, rights-of-way, temporary construction easements, access rights, or other interests in real property obtained through eminent domain.

IV. Public Uses

Property may be acquired through eminent domain for District purposes including, but not limited to:

- Groundwater recharge facilities;
- Reservoirs and storage facilities;
- Canals and conveyance facilities;
- Pipelines;
- Water treatment facilities;
- Pumping plants;
- Electrical transmission and distribution infrastructure;
- Flood control facilities;
- Maintenance roads and access ways;
- Water quality projects;
- Habitat mitigation required for Board approved projects; and
- All other public purposes required to support District operations and facilities.

V. Board Authority

Only the Board of Directors for Westlands Water District (“Board”) may authorize commencement of an eminent domain action through adoption of a Resolution of Necessity as required by California law. (Cal. Code Civ. Proc., §1230.010 et seq.)

No eminent domain action may be filed absent Board approval.

ADMINISTRATIVE PROCEDURE

Real Property Acquisition and Eminent Domain

Step 1 – Project Need Determination

The General Manager or its designee will investigate, study, and confirm that:

1. A public project requires acquisition of real property interests.
2. Alternative locations or alignments have been evaluated, where appropriate.
3. The proposed acquisition minimizes private injury while accomplishing project objectives.

Staff shall prepare a Property Acquisition Report documenting:

- Project purpose;
- Location;

- Property interests required;
- Alternatives considered;
- Environmental review status; and
- Estimated acquisition costs.

The Property Acquisition Report shall remain confidential and privileged to the extent permitted by law.

Step 2 – Preliminary Title Investigation

Staff shall obtain:

- Preliminary title reports;
 - Ownership information;
 - Existing encumbrances;
 - Legal descriptions; and
 - Maps and exhibits depicting the required property interests.
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Step 3 – Appraisal Process

Before making a statutory offer to an owner of record:

1. The District will retain a qualified independent appraiser.
2. Property owners shall receive written notice of the appraisal inspection.
3. The appraisal inspection will include preliminary site investigation to assess the need for specialized remediation.
4. Owners will have an opportunity to accompany the appraiser during inspection as provided by law.
5. The District and owner may meet to discuss the project, its needs, alternatives considered, owners rights and process going forward.
6. Owner may participate by providing information about unique property characteristics/value, including but not limited to leases, crop maps, yield data, soil reports, improvements and operational value.
7. The appraisal will determine fair market value and any compensable damages.

The appraisal shall be reviewed and approved by the District's General Manager or its designee.

Step 4 – Offer to Purchase

After completion of the appraisal and its review/approval, the District may make its written offer of just compensation to the owner of record for no less than the approved appraisal, which will include:

1. A summary statement of the basis for valuation supporting the offer of just compensation.
 2. A statement advising property owners of their right to obtain independent appraisals and legal counsel. An offer to pay reasonable costs incurred (up to \$5,000) for an independent appraisal.
 3. An informational pamphlet will be provided to the landowner detailing the process and their rights under Eminent Domain Law.
 4. A Goodwill Notice to any business owner who is not the landowner of possible compensation for loss of goodwill.
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Step 5 – Negotiation Requirements

The District will engage in good-faith negotiations before considering eminent domain.

Negotiations may include:

- Additional meetings with property owners;
- Review of owner-provided information;
- Supplemental appraisals as needed; or
- Revised offers where justified.

Staff will maintain a complete record of all communications and negotiation efforts.

Negotiation Standard

Except in emergency circumstances authorized by law, the District shall not seek a Resolution of Necessity unless:

- A written offer has been made;
 - Reasonable negotiation efforts have occurred; or
 - Negotiations have reached impasse or voluntary acquisition appears unlikely.
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Step 6 – Resolution of Necessity

If negotiations fail, staff may present a Resolution of Necessity to the Board.

The staff report shall include:

1. Project description;
2. Property description;
3. Acquisition history;
4. Appraisal information;
5. Summary of negotiations; and
6. Legal analysis prepared by District counsel.

The Resolution of Necessity must reference the public necessity requirements that:

1. The public interest and necessity require the project;
 2. The project is planned or located to provide the greatest public good and least private injury;
 3. The property interest sought is necessary for the project; and
 4. The District has complied with required statutory acquisition procedures.
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Step 7 – Notice and Hearing

The District shall provide each property owner whose name appears on the last equalized county assessment roll with notice and a reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030 (public necessity requirements.)

Notice shall include and state:

- Time and place of hearing.
 - The contents of the proposed resolution of necessity.
 - The intent of the governing body to adopt the resolution of necessity.
 - The owner's right to appear and be heard on the matters referred to in Code of Civil Procedure section 1240.030.
 - Failure to file a written request to appear and be heard within 15 days after notice was provided will result in the waiver of the right to appear and be heard.
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Step 8 – Public Hearing

The Board shall conduct a public hearing regarding the proposed Resolution of Necessity to consider whether:

- The public interest and necessity of the proposed project;
- The proposed project is located in a manner that is compatible with the greatest public good and least private injury;
- The property described in the Resolution of Necessity is required for the proposed project; and

- The statutory offer to purchase was provided to the owner of record.

Property owners may:

- Present testimony;
- Submit written objections; or
- Present evidence concerning the statutory findings.

Following the hearing and based on its consideration of the administrative record, the Board shall vote on whether to adopt the Resolution of Necessity which requires approval by two-thirds of its members.

Step 9 – Filing Litigation

If the Resolution of Necessity is adopted, District counsel may file a complaint in eminent domain.

The District may:

- Continue settlement discussions;
- Seek stipulated acquisitions;
- Request prejudgment possession when appropriate; or
- Pursue mediation where beneficial.

Settlement authority may be delegated by the Board, consistent with adopted purchasing and litigation policies.

Step 10 – Relocation Assistance

If acquisition displaces residents, businesses, or agricultural operations, the District shall comply with all applicable relocation assistance requirements, including:

- Relocation notices;
 - Advisory services;
 - Eligibility determinations; and
 - Relocation payments.
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Step 11 – Deposit of Probable Compensation

When appropriate under the Eminent Domain Law, the District may deposit probable compensation with the court and seek prejudgment possession as authorized by law.

Step 12 – Recordkeeping

The District shall maintain a complete acquisition file containing:

- Appraisals;
- Offer letters;
- Negotiation records;
- Notices;
- Board actions;
- Court filings; and
- Settlement agreements.

Files shall be maintained in accordance with the District's records retention schedule.
